

C27/4

**ISLAS
MALVINAS**

Investigac.
sobre docu-
mentación
existente
en GRAN
BRETAÑA

C27/4

ISLAS MALVINAS
INVESTIGACION SOBRE DOCUMENTACION
EXISTENTE EN GRAN BRETAÑA

IV

INVESTIGACION EFECTUADA POR EL ABOGADO WILLIAM R. JOYCE, JR.
SOBRE DOCUMENTACION CONCERNIENTE A LAS ISLAS MALVINAS EXIS-
TENTE EN EL MINISTERIO DE RELACIONES EXTERIORES (BRITISH
FOREIGN OFFICE) Y EN EL MINISTERIO DE COLONIAS (BRITISH COLO
NIAL OFFICE) DE GRAN BRETAÑA.

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RESEARCH DOCUMENTATION
BY
WILLIAM R. JOYCE, JR. ESQ
FOR
ARGENTINE AIR FORCE

PRESENTATION FOR A RESEARCH DOCUMENTATION
TO BE PREPARED BY WILLIAM R. JOYCE, JR. ESQ. FOR THE
ARGENTINE AIR FORCE

3 may 1982

The Western World, particularly, the United States, has been the target of a propaganda "Blitzkrieg" from Great Britain since April 2, 1982 after the Argentine Armed Forces regained possession of the Malvinas Islands.

One would think that the United States had not gained its independence from Great Britain some Two Hundred years ago. It is as though Great Britain is summoning the English-Speaking world, particularly the United States, to rally around her as the Argentine Republic is re-claiming what is rightfully hers, having been taken by Great Britain in 1833. Unable to launch an assault alone she is seeking assistance from the gigantic military establishment of the United States to sustain its assault. Great Britain can't possibly fight a war some 8000 miles away from home without outside assistance. There are no port facilities open to her fleet in the South Atlantic other than that which she has on Ascension Island but even there she needs fuel, food, water and other supplies which she cannot provide by herself. What this British propaganda over looks is that the British had recognized Argentine sovereignty over the Islands, but later in 1833 Great Britain forcibly threw out the Argentine in 1833. Great Britain has continued to operate the Malvinas Islands as a colony and the people who are supporting the "natives" are actually either working for the British Government or the Falkland Island Company. Many cannot return to England.

The role of the United States in their affair should have been one of being the honest broker rather than "tilting" towards Great Britain like President Eisenhower in 1956 who prevented the combined British-French and Israeli forces from seizing the Suez Canal by interfering the U.S. Sixth Fleet between them.

Futhermore while the United States is an English-Speaking country, England is not the mother country for most of the citizens of the United States. Therefore cries of help from the "mother country" fell on many deaf ears in the United States.

The United States showed the way some two hundred years ago when it threw off the yoke of colonialism by successfully declaring its independence from Great Britain.

So too, Argentina and the other Republics of the Western Hemisphere in shedding themselves of Spanish rule. But it would be a shame to turn the clock back all these years of freedom just to protect these scattered vestiges of colonialism in the Western Hemisphere for some nostalgia for a "mother country".

One can only be grateful for the lead of Ireland who has suffered very much for almost 900 years as a colony of Great Britain for leading the fight against colonialism at the United Nations.

**BASIS FOR THE RESEARCH DOCUMENTATION TO BE
PREPARED BY WILLIAM R. JOYCE, JR. ESQ. FOR THE
ARGENTINE AIR FORCE**

6 may 1982

There exists in the Archives of the British Foreign Office and the British Colonial Office the entire diplomatic history of the Malvinas and, particularly, the original correspondence of the British Government concerning the seizure of the Islands and the transfer of sovereignty as well as the diplomatic relations with the Argentine Republic concerning these islands.

These British documents should establish without any question the Argentine sovereignty over the islands and confirm the seizure as well as statements and admissions which would have been made concerning Argentine claims of sovereignty (but which these authors would never have thought would be made public at a later date) the British follow a general policy of making public their actions after thirty years have expired so that documents are available up until 1932. Usually the only people who do research are students and teachers. I'm the only lawyer (that I know of) who has used them to establish a legal basis for a claim.

I cannot estimate at this time the approximate number of documents involved. They will probably cover over 130 years but since they will be mostly handwritten there should not be too many. I would guess that there may be 40 to 50 a year which may be pertinent, of those which are pertinent, I would suggest that only these be selected which are clearly useful because of their legal or diplomatic value and photostated or "xeroxed" and put in chronological order.

Any "spectacular" finds I would arrange to send to Washington immediately. The chronological history I would anticipate would either be mailed back to my office for transmittal to you or be brought here personally by me.

I think it most important for the Argentine Government, particularly in dealing with the U.S. Department of State (which in turn will rely heavily on its Office of Legal Adviser) to establish from an Anglo-American common law view point that the British have acknowledge Argentine sovereignty and their unlawful seizure of the Islands - using internal British documents and in the light of their own laws.

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I would estimate that the analysis of the British Archives should not take more than 7 to 10 working days to complete. Once the material is back here in Washington, it could take another 2 to 3 weeks at most to organize the material. This is a very conservative but realistic estimate of the time involved.

There is a risk involved in delay. If the British Government should deem that the Archives would be helpful they might find some way of making them unavailable. However knowing the British mentality, they will not think of these unless it is strongly called to their attention. A United State lawyer looking into this will not cause them to be suspicious so I am reasonably confident the archives will be available while the conflict or negotiations continue.



**DOCUMENTATION BASED ON THE ARCHIVES OF
THE BRITISH COLONIAL OFFICE**

17 may 1982

The Archives of the British Government relating to Las Malvinas are deposited for safe-keeping in the Public Record Office located in Kew Gardens -in the City of London. They are open for inspection to persons who the Keeper of Public Records determines are suitable and recommended in writing by a person of recognized position. Public Records, with few exceptions, are open to inspection thirty years after the end of the year in which they were created. The records relating to Las Malvinas are to be found in the archives of the British Foreign Office and the British Colonial Office. (This information gives the Argentine Government a tremendous advantage in negotiating with the British when they become aware that the Argentine Government is completely aware of all their archives)

According to THE TIMES of London, April 12, 1982 the Foreign Ministry removed many files from the Public Record Office and had them taken to the Foreign and Commonwealth Office in White Hall (London) for study. (Attached here as Exhibit A).

However, while they may have moved certain files they did not removed the volumes containing the index to such files including their files numbers with the result that we know 1) the existence of the files and 2) a description of the subject matter (in most cases) contained in such files. This is very important because they cannot deny that such files do not exist and moreover can be identified specifically. Under Anglo-American legal procedures the British Government would have the burden of proof to show that specific file did not exist, if it were requested in the course of negotiating to produce these files relating to the question of sovereignty specifically identified according to their own index and file numbers. Failure to produce these files would bring about the legal inference that the British Government had something to hide and would be guilty of negotiating in bad faith.

Interestingly, the Colonial Office files were apparently not removed but only Foreign Office Files.

The records of the British Foreign Office relating to Las Malvinas are as follows:

F.O. 420

/116

LETTER BOOKS

- 1. 1791 - 1792
- 10. 1820 - 1823

/117

REGISTERS OF CORRESPONDENCE

- 1. 1816 - 1819
- 1823 - 1833
- 1843 - 1849
- 14. 1877 - 1878

/118

EMBASSY AND CONSULAR ARCHIVES

- 1 1823 December from FOREIGN OFFICE
- 1824
- 2 NO DATE: VARIOUS
- 30.A Diplomatic and Naval Officers Papers concerning the Falkland Islands
- 1936: Falkland Islands: postage stamp showing them as Argentine territory file No.98
- 1939: Flakland Islands: more agitation in support of claims to the islands, file No. 65
- 1940 FALKLAND ISLANDS File No. 65
- "--- ---"--- ---" ---"
- "--- ---"--- ---" ---"
- "--- ---"--- ---" ---"
- 1948 FALKLAND ISLANDS and Antartic Dependencies
- FALKLAND ISLANDS and Antartic Dependencies
- "--- ---"--- ---" ---"
- 1949 ---"--- ---" ---"
- 1950 ---"--- 1522 (Part I)

/670

/689

*/699

*/707

/ 725

*/734

*/763

*/764

*/765

/ 774

/ 789

(* closed for fifty years)

807-810	1951	RETAINED BY DEPARTMENT under
		Sec. 3 (4)
815	1951	CLOSED for 50 years
817	1951	RETAINED BY DEPARTMENT
818	1951	----- " -----
819	1951	----- " -----

119

LETTER BOOKS

/1.	1823-1836	To miscellaneous
-	1824-1825	See F.O. 119/15
/2.	1826-1827	To FOREIGN OFFICE
/3.	1832-1834	" " "
/15.	1824-1825	" " "

347

REGISTERS OF CORRESPONDENCE

OFFICE - See F.O. 347/5	1824-1836	To and From FOREIGN
/5	1824-1836	To and From FOREIGN
		OFFICE

446

EMBASSY AND CONSULAR ARCHIVES

/1.	1832-78	Letters and Papers relating
		to claims of British subjects
		(Notarial)

807

REGISTERS OF CORRESPONDENCE

/1.	1894-1899
	The records of the British Colonial Office
	relating to Las Mavinas (are contained in 216
	volumes of which the most important are Vols.
	1 - 3) are as follows:

C.O. 78

*1.	1831-1834	ORIGINAL CORRESPONDENCE
*2.	1835	" "
*3.	1840-1841	" "

* I have read of all the original correspondence in Volumes 1 - 3 which is handwritten and have ordered photostatic copies of relevant documents which should arrive in Washington by June 1. In some of these documents British Government officials relate how Great Britain gave up possession in 1771 and took it from Argentina in 1832/33.

174/1	Feb. 20, 1926	FILE No. 4784
181/11/	May 12-Oct. 11	British claims to Antartica; inquiry from French Government to extent of Falkland Islands dependencies. (56873)
*183/6	Argentine Claims to sovereignty over South Orkney. (66771)	
	* Closed for 50 years	
186/10	1930	Argentina claims to sovereignty over South Orkney. (76779)
	* Closed for 50 years	
*186/15	Feb 22, 1930	British Antartica Claims
	Jan 6, 1931	(76792)
	* Closed for 100 years	
*187/12	1930	Argentine claims to Falkland Islands and South Orkney. (76846)
	* Closed for 75 years	
*193/6	1933-1933	Argentine claims to Falkland Islands. (19225)
	* Closed for 50 years	
196/1	Feb. 16, 1934	Argentine Government:
	Jan. 11, 1935	question of visa for passport belonging to British subjects born in Falkland Islands. (39221)
196/12	March 13	Scheme for state-aided
	August 1, 1934	immigration of Falkland Is- lander - rejection of re-set- tlement in Argentina. (39234)
199/9	Feb. 21-	Alleged cancellation by
	Nov. 29, 1935	Argentine Government of iden- tity cards belonging to Falk- land Islanders. (88027)
*202/3	1936	Argentine claims to Falkland (88027)
	* Closed until 1987	

*205/10	Feb 1-Aug 19 1937	Argentine claims to Falkland Islands (88027)
	* Closed for 50 years	
208/7	March 11- Nov. 4, 1938	Argentine claims to Falkland Islands (88027)
211/9	January 13 Oct. 12, 1939	Argentine claims to Falkland Islands (88027)
*215/1	1941-2	Argentine claims to Falkland Islands. Alleged occupation of dependencies. (88027)
/2	-----	" ----- "
/3	-----	" ----- "
/4	-----	" ----- "
/5	-----	" ----- "
/6	-----	" ----- "
	* Closed until 1992	
*217/5	Jan 29-Apr 21 1945	TERRITORIAL LIMITS. British, Chilean and Argentine claims to Antartica. (88027)
	Closed for 50 years	
217/14	1945	FILE No. 88027/8 Part 1
* /15	"	" Part 2
* /16	"	" Part 3
* /17	1946	" Part 1
	Retained by Department of Origin	
245/1	----RETAINED by DEPARTMENT OF ORIGIN----	
248/11	Feb 3-Nov 10 1949	Argentine Government annexa- tion of the continental shelf covering Falkland Islands ter- ritory. United Kingdom pro- posed to do same. (88377/1)

It is also quite possible that material relating to the Falkland Islands may also be included in the private collections of papers of British Secretaries of State for Foreign Affairs which are deemed to be the personal property of the Foreign Secretary and could be deposited where he wished.

The enclosed list indicates the locations of such papers from 1782 to 1938. In view of the shortness of time no examination of these documents have been made but nevertheless may be valuable in establishing the sovereignty of the Argentine Republic over Las Malvinas.)

Why political embarrassments
are not always security risks

Taking the secrets out of the past

An astute secret agent in London last week would have noticed a significant increase in the number of large cardboard boxes being carried in Government vans from a certain futuristic building in Kew to the Foreign and Commonwealth Office in Whitehall. Could it have anything to do with the Falkland Islands? Surprisingly, yes. The boxes contained historical documents, some of them more than 150 years old, demonstrating Britain's legal right of sovereignty over the islands.

Perhaps force will be averted. Perhaps the dispute will be settled in an international forum through debate. In that case, history will be part of the debate and, this time, the diplomats will be ready for it. They do not want to be caught napping again and they are spending Easter studying the old papers, ready for the historical battle. Meanwhile the archivists of the Public Record Office can take pride in the bizarre fact that they are marching with the men of the Royal Navy in the national effort to restore the integrity of British soil.

Britain and the United States are generally helpful in allowing access to their papers. "It's all here in the files and anyone from Brezhnev down can come along and see it," an archivist in Washington told me. Such a policy in our country contributes to our tourist trade and image as a democratic country, showing that we are not afraid to reveal the truth, even if embarrassing, because concealment can be more embarrassing still. It was Lord Acton who said that "to keep one's archives barred against historians is tantamount to leaving one's history to one's enemies".

A debate in the House of Lords in April 1977, however convinced the Government that all was not quite as it should be. Too many documents were being unnecessarily closed. A committee was set up under Sir Duncan Wilson and a few days ago the Government produced a White Paper indicating the chance of a more liberal policy. The 44 Wilson recommendations accepted by the Government — 28 are either not accepted or noted or to be considered further — include important changes in how sensitive docu-

ments will be selected for long closure or retention in the department of origin beyond the normal 30-year period. These changes could, if the Lord Chancellor so decides, lead to the first-ever revelation of M15 and M16 papers.

The dispute over these papers arises from the decision taken by Lord Chancellor Gardiner in 1967 to give "blanket approval" for all intelligence-related papers to be closed, even those that merely mention the names of persons or organizations at the end in a distribution list. The result was catastrophic. Not only were M15 and M16 records closed in their entirety, right back to 1909 and 1911 respectively, when the two groups were formed, but so too was any paper that even mentioned the existence of a British intelligence body in peacetime.

A word or two in a distribution list closed a document and the presence of one such document closed an entire file. The edict cut a swathe through the record of Britain's post-war actions in Germany, Palestine and India.

It is also, some historians believe, illegal. The law requires a department to obtain the Lord Chancellor's permission before retaining any document. This has not been happening. Anything judged by the department itself to be intelligence-related, a broad enough term, can be retained on the basis of the Gardiner edict. Though the distribution-list anomaly was changed in 1979, documents recently released from retention show that the widest possible interpretation is used to determine an intelligence-related document. Many were closed unnecessarily and the suspicion naturally arises that the device is used to cover up embarrassments and blunders.

Successive Lord Chancellors have been confused by all this. Lord Gardiner says that he cannot remember signing the order. Lord Elwyn-Jones wrote in 1976 that when it came to decisions on closure, "I am responsible, both to Parliament and in law, for holding the balance." But he could not hold the balance, since departments were relying on the 1967 edict to retain documents without even showing them to him.

He believed, he said, that the



The Public Records Office at Kew: too many papers are kept from scrutiny

system "may already be the limits of practicality". This view, previously not shared by his predecessor, has now been approved by the changes.

His edict will now be that Lord Hailsham decided how to bring intelligence papers, it is to be closed in 10 years and such closures are to be reviewed every 20 years. But will he close? The whole issue compiled before the World?

It is consistent with the suggestion that 75 years is the appropriate period, on which basis MI5 would start becoming MI6 in 1985, MI6 papers in 1990 would not be a great cut. The new "blanket" is the same as the

Lord Hailsham's dilemma is that he has no proper staff and no proper which to base his department has only "sensitivity", an even more than "intelligence" permission to retain intelligence granted.

He accepts that some even old documents, kept under lock and key, of MI5 reports by Irishmen who spied in 1920 would place in danger, even after 60 years, and would be possible IRA in today. No one would let for Britain in countries or the Third for the matter in the

the army a somewhat amorphous mass which may be capable of taking hard blows but is not capable of delivering them, at any rate when faced with a large scale organised opposition.

M.I.2.(b),

M.A. to S. of S.
M.A. to C.I.G.S.
M.A. to D.C.I.G.S.
D.M.O.

M.O.S.

M.I.3.
M.I.6.
M.I.10.
G.H.Q. (4 copies)
Beyrout Mission.
D.M.I., Admiralty
D. of I., Air Ministry
U.S. of S., Foreign Office
M.I.(J.I.C.) and file.



Any official document, such as this, mentioning a part of the security services is automatically selected for "long closure". Will Lord Hailsham change the practice?

western world, unless sure of remaining unidentified for a century.

Premature revelation of such deadly facts in the US has not helped CIA recruitment. The prospect of revelation is also, it is said, discouraging officials from discussing sensitive matters on paper. The telephone, in the long term, is more secure and leads to less recrimination.

Openness can nevertheless benefit the national interest and curb the crueler twists of the bureaucratic mind. Armine Drew would not have complained in 1944 about "wailing Jews" taking up too much Foreign Office time, if he had known that his nasty words would soon become public, nor would John Galsworthy have written about anti-Stalinist Rus-

sians that "they seem to us to deserve no sympathy".

The opening of files on our wartime intelligence successes has led to books which have enhanced our prestige, while our failures — Philby, Burgess, Maclean, Blunt and maybe others — are compounded by the suspicion that documents explaining the full truth are being kept closed not to protect national security, but to cover up mistakes or betrayals.

So the movement for freer access to state papers, frequently described in these columns, now approaches its moment of decision. However little he relishes the task imposed on him by statute, which he sees as a political one and barely consistent with his role as head of the judiciary, Lord Hailsham now has

to make up his mind how he will supersede the Gardiner edict, how far to spread the blanket of his approval for closure.

He has a duty to protect the security of intelligence operations and personnel. That is common ground. But what about the merely embarrassing? If he does no more than confirm present policy, it will be hard indeed to accept the assurance given me by one Government minister five years ago that "the Lord Chancellor's blanket covers a finite area".

Nicholas Bethell

Lord Bethell is an author and Member of the European Parliament.

TREATY OF AMITY, COMMERCE, AND
NAVIGATION, BETWEEN HIS MAJESTY
AND THE UNITED PROVINCES OF
RIO DE LA PLATA

27 May 1982

The Treaty of Amity Commerce and Navigation between His Majesty and the United Provinces of Rio de la Plata of February 2, 1825 is extremely important to the Argentine Republic today. Its importance is due to the fact that this is the first treaty between Great Britain and Argentina after Argentina obtained its independence from Spain in 1810. It was the recognition of Argentina, then known as the territory of the United Provinces of Rio de la Plata as a sovereign nation. Having abandoned Las Malvinas in 1771 to Spain and Las Malvinas being part of Spain where Great Britain recognized the territories of the United Provinces of Rio de la Plata it included Las Malvinas.

If that were not true Great Britain should have made a reservation in their treaty saying that it recognized this new country, "but made reservation concerning the sovereignty of Las Malvinas". It had to have made one affirmative objection to include Las Malvinas when it recognized the territories of the United Provinces of Rio de La Plata. Instead it recognized all its territories as being part of what is now Argentina.

TREATY of Amity, Commerce, and Navigation, between His Majesty and The United Provinces of Rio de la Plata.—Signed at Buenos Ayres, February 2, 1825.

(Presented to Parliament, May 16th, 1825.)

EXTENSIVE Commercial Inter-
course having been established for
a series of years between the Do-
minions of His Britannick Majesty,
and the Territories of the United
Provinces of Rio de la Plata, it
seems good for the security as well
as encouragement of such Com-
mercial Intercourse, and for the
maintenance of good understand-
ing between His said Britannick
Majesty and the said United Pro-
vinces, that the Relations now
subsisting between them should
be regularly acknowledged and
confirmed by the signature of a
Treaty of Amity, Commerce, and
Navigation.

For this purpose they have
named their respective Plenipo-
tentiaries, that is to say;—

His Majesty The King of the
United Kingdom of Great Britain
and Ireland, Woodbine Parish,
Esquire, His said Majesty's Con-
sul-General in the Province of
Buenos Ayres and its Depend-
encies;—and The United Provinces
of Rio de la Plata, Señor Don
Manuel José Garcia, Minister
Secretary for the Departments of
Government, Finance, and Foreign
Affairs, of the National Executive
Power of the said Provinces;

Who, after having communi-
cated to each other their respec-
tive Full Powers, found to be in

HABIENDO existido por muchos
años un Comercio extenso entre
los Dominios de Su Magestad Bri-
tánica, y los Territorios de las
Provincias Unidas del Rio de la
Plata, parece conveniente á la
seguridad y fomento del mismo
Comercio, y en apoyo de una
buena inteligencia entre Su Ma-
gestad y las expresadas Provincias
Unidas, que sus Relaciones ya ex-
istentes sean formalmente recono-
cidas y confirmadas por medio de
un Tratado de Amistad, Comercio,
y Navegacion.

Con este fin han nombrado
sus respectivos Plenipotenciarios,
á saber;—

Su Magestad El Rey del Reyno
Unido de La Gran Bretaña é Yr-
landa, al Señor Woodbine Parish,
Cónsul-General de Su Magestad
en Buenos Ayres;—y las Provin-
cias Unidas del Rio de la Plata,
al Señor Don Manuel José Garcia,
Ministro Secretario en los Depart-
amentos de Gobierno, Hacienda, y
Relaciones Exteriores, del Execu-
tivo Nacional de las dichas Pro-
vincias;

Quienes, habiendo cangeado
sus respectivos Plenos Poderes, y
hallandose estos extendidos en

due and proper form, have agreed upon and concluded the following Articles :—

I. There shall be perpetual Amity between the Dominions and Subjects of His Majesty The King of the United Kingdom of Great Britain and Ireland, and The United Provinces of Rio de la Plata, and their Inhabitants.

II. There shall be between all the Territories of His Britannick Majesty in Europe, and the Territories of the United Provinces of Rio de la Plata, a reciprocal freedom of Commerce: The Inhabitants of the two Countries, respectively, shall have liberty freely and securely to come, with their Ships and Cargoes, to all such Places, Ports, and Rivers, in the Territories aforesaid, to which other Foreigners are or may be permitted to come; to enter into the same, and to remain and reside in any part of the said Territories respectively; also to hire and occupy houses and warehouses for the purposes of their Commerce; and, generally, the Merchants and Traders of each Nation, respectively, shall enjoy the most complete protection and security for their Commerce; subject always to the Laws and Statutes of the two Countries respectively.

III. His Majesty The King of the United Kingdom of Great Britain and Ireland engages further, that in all His Dominions situated out of Europe, the Inhabitants of the United Provinces of Rio de la Plata shall have the like liberty of Commerce and

debida forma, han concluido y convenido en los Artículos siguientes :—

I. Habrá perpetua amistad entre los Dominios y Súbditos de Su Magestad El Rey del Reyno Unido de La Gran Bretaña é Yrlanda, y las Provincias Unidas del Rio de la Plata, y sus Habitantes.

II. Habrá entre todos los Territorios de Su Magestad Británica en Europa, y los Territorios de las Provincias Unidas del Rio de la Plata, una reciproca libertad de Comercio: Los Habitantes de los dos Países gozarán respectivamente la franqueza de llegar segura y libremente, con sus Buques y Cargas, á todos aquellos Parages, Puertos, y Rios, en los dichos Territorios, adonde sea ó pueda ser permitido á otros extrangeros llegar; entrar en los mismos, y permanecer y residir en cualquier parte de los dichos Territorios respectivamente; tambien alquilar y ocupar casas y almacenes para los fines de su Tráfico; y, generalmente, los Comerciantes y Traficantes de cada Nacion, respectivamente, disfrutará de la mas completa proteccion y seguridad para su Comercio siempre sujetos á las Leyes y Estatutos de los dos Países respectivamente.

III. Su Magestad El Rey del Reyno Unido de la Gran Bretaña é Yrlanda, se obliga ademas, á que, en todos sus Dominios fuera de Europa, los Habitantes de las Provincias Unidas del Rio de la Plata tengan la misma libertad de Comercio y Navegacion estipu-

Navigation stipulated for in the preceding Article, to the full extent in which the same is permitted at present, or shall be permitted hereafter to any other nation.

IV. No higher or other Duties shall be imposed on the importation into the Territories of His Britannick Majesty, of any Articles of the growth, produce, or manufacture of the United Provinces of Rio de la Plata, and no higher or other Duties shall be imposed on the importation into the said United Provinces, of any Articles of the growth, produce, or manufacture of His Britannick Majesty's Dominions, than are or shall be payable on the like Articles, being the growth, produce, or manufacture of any other Foreign Country; nor shall any other or higher Duties or Charges be imposed, in the Territories or Dominions of either of the Contracting Parties, on the exportation of any Articles to the Territories or Dominions of the other, than such as are or may be payable on the exportation of the like Articles to any other Foreign Country: nor shall any prohibition be imposed upon the exportation or importation of any Articles the growth, produce, or manufacture of His Britannick Majesty's Dominions, or of the said United Provinces, which shall not equally extend to all other Nations.

lada en el Artículo anterior, con toda la extension que en el dia se permite, ó en adelante se permitiese, á cualquiera otra Nacion.

IV. No se impondrán ningunos otros ni mayores Derechos á la importacion en los Territorios de Su Magestad Británica, de cualesquiera de los Artículos de produccion, cultivo, ó fabricacion de las Provincias Unidas del Rio de la Plata, y no se impondrán ningunos otros ni mayores Derechos á la importacion en las dichas Provincias Unidas, de cualesquiera de los Artículos de produccion, cultivo, ó fabricacion de los Dominios de Su Magestad Británica, que los que se paguen, ó en adelante se pagaren, par los mismos Artículos, siendo de produccion, cultivo, ó fabricacion de cualquiera otro Pais Extranjero; ni tampoco se impondrán ningunos otros ni mayores Derechos, en los Territorios ó Dominios de cada una de las Partes Contratantes, á la extraccion de cualesquier Artículos en los Territorios ó Dominios de la otra, que aquellos que se pagan, ó en adelante se pagaren, á la extraccion de iguales Artículos á cualquiera otro Pais Extranjero: ni tampoco se impondrá prohibicion alguna á la extraccion ó introduccion de cualesquier Artículos de produccion, cultivo, ó fabricacion de los Dominios de Su Magestad Británica, ó de las Provincias Unidas á ellas, ó desde las dichas Provincias Unidas, que no comprendiere igualmente á todas las otras Naciones.

V. No higher or other Duties or Charges, on account of Tonnage, Light, or Harbour Dues, Pilotage, Salvage in case of Damage or Shipwreck, or any other local Charges shall be imposed, in any of the Ports of the said United Provinces, on British Vessels of the burthen of above one hundred and twenty tons, than those payable, in the same Ports, by Vessels of the said United Provinces of the same burthen; nor in the Ports of any of His Britannick Majesty's Territories, on the Vessels of the United Provinces of above one hundred and twenty tons, than shall be payable, in the same Ports, on British Vessels of the same burthen.

VI. The same Duties shall be paid on the importation into the said United Provinces of any Article the growth, produce, or manufacture of His Britannick Majesty's Dominions, whether such importation shall be in vessels of the said United Provinces, or in British Vessels; and the same Duties shall be paid on the importation into the Dominions of His Britannick Majesty of any Article, the growth, produce, or manufacture of the said United Provinces, whether such importation shall be in British Vessels, or in Vessels of the said United Provinces:—The same Duties shall be paid, and the same Drawbacks and Bounties allowed, on the exportation of any Articles of the growth, produce, or manufacture of His Britannick Ma-

V. No se impondrá mayor ni alguna otra clase de Derechos ó Cargas por razon de Toneladas, Fanal, Puerto, Pilotage, Salvamento en caso de averia ó naufragio, ni otro algun Derecho local, en cualesquiera de los Puertos de las dichas Provincias Unidas, á los Buques Británicos de mas de ciento y veinte toneladas, que aquellos quo se pagaren, en los mismos Puertos, por los Buques de las dichas Provincias Unidas del mismo porte; ni en los Puertos de cualesquiera de los Territorios de Su Magestad Británica, á los Buques de las Provincias Unidas de mas de ciento y veinte toneladas, que aquellos que se pagaren, en los mismos Puertos, por los Buques Británicos del mismo porte.

VI. Los mismos Derechos se pagarán á la introduccion en las dichas Provincias Unidas de cualquier Artículo de produccion, cultivo, ó fabricacion de los Dominios de Su Magestad Británica, ya se haga dicha introduccion en Buques de las Provincias Unidas, ó en Buques Británicos; y los mismos Derechos se pagarán á la introduccion en los Dominios de Su Magestad Británica de cualquier Artículo de produccion, cultivo, ó fabricacion de las Provincias Unidas, ya sea que tal introduccion se haga en Buques Británicos, ó en Buques de las dichas Provincias Unidas:—Los mismos Derechos se pagarán, y las mismas concesiones y gratificaciones por via de reembolso de Derechos se abonarán, á la exportacion de cualesquier Artículos

Majesty's Dominions to the said United Provinces, whether such exportation shall be in Vessels of the said United Provinces, or in British Vessels; and the same Duties shall be paid, and the same Bounties and Drawbacks allowed, on the exportation of any Articles the growth, produce, or manufacture of the said United Provinces to His Britannick Majesty's Dominions, whether such exportation shall be in British Vessels, or in Vessels of the said United Provinces.

VII. In order to avoid any misunderstanding with respect to the Regulations which may respectively constitute a British Vessel, or a Vessel of the said United Provinces, it is hereby agreed, that all Vessels built in the Dominions of His Britannick Majesty, and owned, navigated, and registered according to the Laws of Great Britain, shall be considered as British Vessels; and that all Vessels built in the Territories of the said United Provinces, properly registered and owned by the Citizens thereof, or any of them, and whereof the Master, and three-fourths of the Mariners, at least, are Citizens of the said United Provinces, shall be considered as Vessels of the said United Provinces.

VIII. All Merchants, Commanders of Ships, and others, the
[1824-25.]

de produccion, cultivo, ó fabricacion de los Dominios de Su Magestad Británica á las Provincias Unidas, ya sea que la referida exportacion se haga en Buques de las dichas Provincias Unidas, ó en Buques Británicos; y los mismos Derechos se pagarán, y las mismas concesiones y gratificaciones por via de reembolso de Derechos se abonarán, á la exportacion de cualesquier Artículos de produccion, cultivo, ó fabricacion de las Provincias Unidas á los Dominios de Su Magestad Británica, ya sea que la referida exportacion se haga en Buques Británicos, ó en Buques de las dichas Provincias Unidas.

VII. Con el fin de evitar cualquier mala inteligencia por lo tocante á los Reglamentos que puedan respectivamente constituir un Buque Británico ó un Buque de las dichas Provincias Unidas, se estipula por el presente, que todos los Buques contruidos en los Dominios de Su Magestad Británica, que sean poseidos, tripulados, y matriculados con arreglo á las Leyes de La Gran Bretaña; serán considerados como Buques Británicos; y que todos los Buques contruidos en los Territorios de las dichas Provincias, debidamente matriculados, y poseidos por los Ciudadanos de las mismas, ó cualquiera de ellos, y cuyo Capitan y tres cuartas partes de la Tripulacion sean Ciudadanos de las dichas Provincias Unidas, serán considerados como Buques de las dichas Provincias Unidas.

VIII. Todo Comerciante, Comandante de Buque, y demas,

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Subjects of His Britannick Majesty, shall have the same liberty, in all the Territories of the said United Provinces, as the Natives thereof, to manage their own affairs themselves, or to commit them to the management of whomsoever they please, as Broker, Factor, Agent, or Interpreter; nor shall they be obliged to employ any other Persons for those purposes, nor to pay them any salary or remuneration, unless they shall choose to employ them; and absolute freedom shall be allowed, in all cases, to the Buyer and Seller, to bargain and fix the price of any goods, wares, or merchandize imported into, or exported from, the said United Provinces, as they shall see good.

IX. In whatever relates to the lading and unlading of Ships, the safety of merchandize, goods, and effects, the disposal of property of every sort and denomination, by sale, donation, or exchange, or in any other manner whatsoever, as also the administration of Justice, the Subjects and Citizens of the Two Contracting Parties shall enjoy, in their respective Dominions, the same Privileges, Liberties, and Rights, as the most favoured Nation, and shall not be charged, in any of these respects, with any higher Duties or Imposts than those which are paid, or may be paid, by the Native Subjects or Citizens of the Power in whose Dominions they may be resident. They shall be exempted from all compulsory Military Service whatsoever, whe-

Súbditos de Su Magestad Británica, tendrán, en todos los Territorios de las dichas Provincias Unidas, la misma libertad que los naturales de ellas, para manejar sus propios asuntos ó confiarlos al cuidado de quien quiera que gusten, en calidad de Corredor, Factor, Agente, ó Yntérprete; ni se les obligará á emplear ninguna otra persona para dichos fines, ni pagarles salario ni remuneracion alguna, á menos que quieran emplearlos; concediendose entera libertad, en todos los casos, al Comprador y Vendedor para contratar y fijar el precio de cualesquier efectos, mercaderias, ó renglones de Comercio, que se introduzcan ó extraigan de las dichas Provincias Unidas, como crean oportuno.

IX. En todo lo relativo á la carga y de carga de Buques, seguridad de mercaderias, pertenencias, y efectos, disposicion de propiedades de toda clase y denominacion, por venta, donacion, cambio ó de cualquier otro modo; como tambien á la administracion de Justicia, los Súbditos y Ciudadanos de las dos Partes Contratantes gozarán, en sus respectivos Dominios, de los mismos Privilegios, Franquezas, y Derechos, como la Nacion mas favorecida, y, por ninguno de dichos motivos, se les exijirá mayores Derechos ó Ympuestos que los que se pagan, ó en adelante se pagaren, por los Súbditos Naturales ó Ciudadanos de la Potencia en cuyos Dominios residieren. Estarán exéntos de todo Servicio militar obligatorio, de cualquier clase que sea, ter-

ther by Sea or Land, and from all forced loans, or military exactions or requisitions; neither shall they be compelled to pay any ordinary taxes, under any pretext whatsoever, greater than those that are paid by Native Subjects or Citizens.

X. It shall be free for each of the Two Contracting Parties to appoint Consuls for the protection of Trade, to reside in the Dominions and Territories of the other Party; but before any Consul shall act as such, he shall, in the usual form, be approved and admitted by the Government to which he is sent; and either of the Contracting Parties may except from the residence of Consuls, such particular Places as either of them may judge fit so to be excepted.

XI. For the better security of Commerce between the Subjects of His Britannick Majesty, and the Inhabitants of the United Provinces of Rio de la Plata, it is agreed, that if at any time any interruption of friendly Commercial intercourse, or any rupture should unfortunately take place between the Two Contracting Parties, the Subjects or Citizens of either of the Two Contracting Parties, residing in the Dominions of the other, shall have the privilege of remaining and continuing their trade therein, without any manner of interruption, so long as they behave peaceably, and commit no offence against the laws; and their effects and property, whether entrusted to Individuals or to the State, shall not be liable to seizure

restre ó marítimo; y de todo empréstito forzoso; de exacciones ó requisiciones militares; ni serán obligados á pagar ninguna contribucion ordinaria, bajo pretexto alguno, mayor que las que pagaren los Súbditos Naturales ó Ciudadanos del Pais.

X. Cada una de las Partes Contratantes estará facultada á nombra Cónsules para la proteccion del Comercio, que residan en los Dominios y Territorios de la otra; pero antes que ningun Cónsul pueda ejercer sus funciones, deberá, en la forma acostumbrada, ser aprobado y admitido por el Gobierno cerca del qual haya sido embiado; y cada una de las Partes Contratantes podrá exceptuar de la residencia de Cónsules, aquellos Puntos especiales que una ú otra de ellas juzque oportuno exceptuar.

XI. Para la mayor seguridad del Comercio entre los Súbditos de Su Magestad Británica, y los Habitantes de las Provincias Unidas del Rio de la Plata, se estipula que, en cualquier caso en que por desgracia aconteciese alguna interrupcion de las amigables relaciones de Comercio, ó un rompimiento entre las Dos Partes Contratantes, los Súbditos ó Ciudadanos de cada qual de las Dos Partes Contratantes residentes en los Dominios de la otra, tendrán el privilegio de permanecer y continuar su Tráfico, en ellos, sin interrupcion alguna, en tanto que se condujeren con tranquilidad, y no quebrantarou las Leyes de modo alguno; y sus efectos y propiedades, ya fueren confiados á Particulares ó al Es-

or sequestration, or to any other demands than those which may be made upon the like effects or property belonging to the Native Inhabitants of the State in which such Subjects or Citizens may reside.

XII. The Subjects of His Britannick Majesty residing in the United Provinces of Rio de la Plata, shall not be disturbed, persecuted, or annoyed on account of their Religion, but they shall have perfect liberty of conscience therein, and to celebrate Divine Service, either within their own private houses, or in their own particular Churches or Chapels, which they shall be at liberty to build and maintain in convenient places, approved of by the Government of the said United Provinces:—Liberty shall also be granted to bury the Subjects of His Britannick Majesty whomay die in the Territories of the said United Provinces, in their own burial places, which, in the same manner, they may freely establish and maintain.

In the like manner, the Citizens of the said United Provinces shall enjoy, within all the Dominions of His Britannick Majesty, a perfect and unrestrained liberty of conscience, and of exercising their Religion publicly or privately, within their own dwelling houses, or in the Chapels and places of worship appointed for that purpose, agreeably to the system of toleration established in the Dominions of His said Majesty.

XIII. It shall be free for the Subjects of Her Britannick Majesty, residing in the United Provinces of

tado, no estarán sujetos á embargo ni secuestro, ni á ninguna otra exaccion que aquellas que puedan hacerse á igual clase de efectos ó propiedades pertenecientes á los Naturales Habitantes del Estado en que dichos Súbditos ó Ciudadanos residieren.

XII. Los Súbditos de Su Magestad Británica residentes en las Provincias Unidas del Rio de la Plata, no serán inquietados, perseguidos, ni molestados por razon de su Religion; mas gozarán de una perfecta libertad de conciencia en ellas, celebrando el Oficio Divino ya dentro de sus propias casas, ó en sus propias y particulares Yglesias ó Capillas, las que estarán facultados para edificar y mantener en los sitios convenientes, que sean aprobados por el Gobierno de dichas Provincias Unidas: tambien será permitido enterrar á los Súbditos de Su Magestad Británica que murieren en los Territorios de las dichas Provincias Unidas, en sus propios cementerios, que podrán, del mismo modo, libremente, establecer y mantener. Asimismo los Ciudadanos de las dichas Provincias Unidas, gozarán en todos los Dominios de Su Magestad Británica, de una perfecta é ilimitada libertad de conciencia, y del ejercicio de su Religion pública ó privadamente, en las casas de su morada, ó en las Capillas y sitios de culto destinados para el dicho fin, en conformidad con el sistema de tolerancia establecido en los Dominios de Su Magestad.

XIII. Los Súbditos de Su Magestad Británica residentes en las Provincias Unidas del Rio de la Pla-

Rio de la Plata, to dispose of their property, of every description, by Will or Testament, as they may judge fit; and in the event of any British Subject dying without such Will or Testament in the Territories of the said United Provinces, the British Consul-General, or, in his absence, his Representative, shall have the Right to nominate Curators to take charge of the property of the deceased, for the benefit of his lawful heirs and creditors, without interference, giving convenient notice thereof to the Authorities of the Country; and reciprocally.

XIV. His Britannick Majesty being extremely desirous of totally abolishing the Slave Trade, The United Provinces of Rio de la Plata engage to co-operate with His Britannick Majesty for the completion of so beneficent a work, and to prohibit all Persons inhabiting within the said United Provinces, or subject to their jurisdiction, in the most effectual manner, and by the most solemn Laws, from taking any share in such Trade.

XV. The present Treaty shall be ratified, and the Ratifications shall be exchanged in London, within four months, or sooner if possible.

In Witness whereof the respective Plenipotentiaries have signed the same, and have affixed their Seals thereunto.

Done at Buenos Ayres, the second day of February, in the year of our Lord one thousand eight hundred and twenty-five.
WOODBINE PARISH, (L.S.)

ta, tendrán el derecho de disponer libremente de sus propiedades, de toda clase, en la forma que quisieren ó por testamento, segun lo tengan por conveniente; y en caso que muriere algun Súbdito Británico, sin haber hecho su dicha última disposicion ó testamento, en el Territorio de las Provincias Unidas, el Cónsul-General Británico, ó, en su ausencia, el que lo representare, tendrá el derecho de nombrar Curadores, que se encarguen de la propiedad del difunto, á beneficio de los legítimos herederos y acreedores, sin intervencion alguna, dando noticia conveniente á las Autoridades del Pais; y reciprocamente.

XIV. Deseando Su Magestad Británica ansiosamente la abolicion total del Comercio de Esclavos, las Provincias Unidas del Rio de la Plata se obligan á co-operar con Su Magestad Británica al complemento de obra tan benéfica, y á prohibir á todas las Personas residentes en las dichas Provincias Unidas, ó sugetas á su jurisdiccion, del modo mas eficaz, y por las leyes mas solemnes, de tomar parte alguna en dicho Tráfico.

XV. El presente Tratado será ratificado, y las Ratificaciones canjeadas en Lóndres, dentro de cuatro meses, ó antes, si fuere posible.

En Testimonio de lo cual los respectivos Plenipotenciarios lo han firmado, y sellado con sus Sellos.

Hecho en Buenos Ayres, el dia dos de Febrero, en el año de nuestro Señor mil ochocientos veinte y cinco.

MAN^{te}. J. GARCIA, (L.S.)



DE MALVINAS ISLANDS SECRET
CLAUSE OF 1771
AND
THE BEAGLE CHANNEL CONTROVERSY

THE BEAGLE CHANNEL CONTROVERSY

* * * * *

THE BRITISH ARBITRATION OF
AN ARGENTINE-CHILEAN BOUNDARY DISPUTE, 1971-1977

by

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Member of the Bars of
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THE BEAGLE CHANNEL CONTROVERSY:

THE BRITISH ARBITRATION OF AN ARGENTINE-CHILEAN BOUNDARY DISPUTE, 1971 - 1977

I. Historical Background

With the brooding omnipresence of the question of ownership by either Argentina or Great Britain of Las Malvinas/Falkland Islands off the lower southeast coast of Argentina in the South Atlantic in the background, a festering sore in the relations between Argentina and Great Britain--since 1833--and swollen by reports of huge petroleum resources in the area--the Socialist Labor Government of Great Britain under Prime Minister Harold Wilson entered into an Arbitration Agreement or "Compromiso" with the Argentine Republic during the military government of General Lanusse and during the regime of the Marxist-Leninist President, Salvador Allende, with the Republic of Chile on July 22, 1971 establishing a Court of Arbitration to resolve the controversy of the boundary between Argentina and Chile at the southern tip of the continent. Or, as the Declaration of Her Majesty, Queen Elizabeth II, on April 18, 1977 in ratifying the Award would put it:

"And Whereas Our Government in the United Kingdom in accordance with the Treaty and after consulting the Parties separately, determined the Arbitration Agreement (Compromiso) which was signed on behalf of Our said Government and the Parties at London on 22nd July 1971..."¹

While the dispute is known as "The Beagle Channel" case, the dispute between Argentina and Chile to be resolved relates to, as the British Court of Arbitration established by the Arbitration

Agreement would later describe it:

"...the territorial and maritime boundaries between them, and the title to certain islands, inlets and rocks near the eastern end of the South American continent in the region of what can conveniently be called in general terms that of the eastern Beagle Channel." 2

The Beagle Channel is located near the southern tip of South America, south of the Straits of Magellan, about 70 miles (112 km) north of Cape Horn. The Channel is named after the Royal Navy survey sloop "Beagle" which had cruised in those waters between 1830 and 1834 and is best remembered for a voyage which carried a distinguished passenger, Mr. Charles Darwin.

What is now the Argentine Republic became independent of Spain in 1810. The Kingdom of Chili or the Captaincy of Chile, as it has been variously called, did not gain its independence from Spain until 1818, and finally entered into a peace treaty with Spain in 1844. On August 30, 1855, however, Argentina and Chile signed a Treaty of Friendship, Commerce and Navigation. As the Court of Arbitration was to later point out, both countries in the Treaty of 1855, while recognizing

"...as the boundaries of their respective territories those existing at the time when they broke away from Spanish dominion in the year 1810." 3

made no attempt to define what those boundaries were, but instead agreed:

"to defer the questions that have arisen or may arise regarding this matter /stress added/ in order to discuss them later...and in case of not being able to reach a complete agreement, to submit the decision to the arbitration of a friendly nation." 4

According to the Arbitration Decision's own history of the problem further negotiations for a boundaries agreement took place in 1865 and again in 1872-73 but came to no avail, as did a proposed settlement by arbitration in 1874. Following naval incidents during 1874-75 in the Straits of Magellan and the nearby rivers, of Rio Santa Cruz and Rio Gallegos, (the area in which The New York Times reported on June 3, 1981 "...could contain as much as six billion barrels of oil, at least three times as much as the Hibernia field off-shore eastern Canada"), involving not only Argentine and Chilean ships but American, British and French as well, did negotiations begin in earnest which led to the Treaty of 1881. It should also be noted that while this Treaty between Argentina and Chile was being negotiated the Chilean Army, in March 1879, attacked its neighbors to the north, namely, Bolivia and Peru, in what is now known as the War of the Pacific, and took all of Bolivia's coast and a large part of Peru's, both of which it still retains some 100 years later and still an open wound among the three countries.

The Treaty of 1881 between Argentina and Chile provided that both governments "...desirous of terminating in a friendly and dignified manner the boundary controversy existing between

the two countries, and giving effect to Article XXXIX of the Treaty of April 1956, /sic/have decided to conclude a Boundary Treaty..."⁵ The applicable portions of this Treaty, namely Articles II and III, provide for the division of territory.

"ARTICLE II

In the southern part of the Continent, and to the north of the Straits of Magellan, the boundary between the two countries shall be a line which, starting from Point Dungeness, shall be prolonged by land as far as Monte Dinero; from this point it shall continue to the west, following the greatest altitudes of the range of hillocks existing there, until it touches the hill-top of Mount Aymond. From this point the line shall be prolonged up to the intersection of the 70th meridian with the 52nd parallel of latitude, and thence it shall continue to the west coinciding with this latter parallel, as far as the divortia aquarum of the Andes. The territories to the north of such a line shall belong to the Argentine Republic, and to Chile those extending to the south of it, without prejudice to what is provided in Article III, respecting Tierra del Fuego and adjacent islands.

ARTICLE III

In Tierra del Fuego a line shall be drawn, which starting from the point called Cape Espiritu Santo, in parallel 52° 40', shall be prolonged to the south along the meridian 68° 34' west of Greenwich until it touches Beagle Channel. Tierra del Fuego, divided in this manner, shall be Chilean on the western side and Argentine on the eastern. As for the islands, to the Argentine Republic shall belong Staten Islands, the small islands next to it, and the other islands there may be on the Atlantic to the east of Tierra del Fuego and of the eastern coast of Patagonia; and to Chile shall belong all the islands to the south of Beagle Channel up to Cape Horn, and those there may be to the west of Tierra del Fuego." (emphasis supplied)⁶

Ninety years after signing this Treaty and after several attempts to arbitrate, Argentina and Chile entered into the Arbitration Agreement or "Compromiso" on July 22, 1971. The requests to the British government, as Arbitrator, by Argentina and Chile to resolve the dispute were as follows:⁷

ARTICLE I

(1) The Argentine Republic requests the Arbitrator to determine what is the boundary-line between the respective maritime jurisdiction of the Argentine Republic and of the Republic of Chile from meridian 68°36'38.5"W., within the region referred to in paragraph (4) of this Article, and in consequence to declare that Picton, Nueva and Lennox Islands and adjacent islands and islets belong to the Argentine Republic.

(2) The Republic of Chile requests the Arbitrator to decide, to the extent that they relate to the region referred to in paragraph (4) of this Article, the questions referred to in her Notes of 11th December 1967 to Her Britannic Majesty's Government and to the Government of the Argentine Republic and to declare that Picton, Lennox and Nueva Islands, the adjacent islands and islets, as well as the other islands and islets whose entire land surface is situated wholly within the region referred to in paragraph (4) of this Article, belong to the Republic of Chile.

(3) The questions specified in the two foregoing paragraphs express the will of the Parties as to the points in dispute which are to be decided by the Court of Arbitration.

(4) The region referred to in paragraph (1) and (2) of this Article is determined by six points the geographical coordinates of which are the following:

	Latitude (S)	Longitude (W)
A	54°45'	68°36'38.5"
B	54°57'	68°36'38.5"
C	54°57'	67°13 ^s
D	55°24'	67°13'
E	55°24'	66°25'
F	54°45'	66°25'

As stated in the Court's Decision, D. Summary of Proceedings, at a meeting with the Parties in London at the end of September 1971,

"...it was decided (inter alia) that English would be the language of the case, and that the written pleadings would be submitted in English." 8

II. The "Compromiso" and Corresponding Decision Analyzed
Oral proceedings began in Geneva on September 8, 1976.

The proceedings were conducted in English or French, at the speaker's choice, with simultaneous translation into English being provided in the latter case. Interestingly enough, despite the fact that both Parties were Spanish-speaking countries, no provision was made for the use of that tongue during the proceedings. The oral proceedings, beginning on September 8, 1976, ended on October 23, 1976, or some six and a half weeks later. Leave was given both sides to deposit additional documentation, the latest by November 16, almost four weeks later, so that the record was completed approximately 10 weeks after the oral proceedings began.

The Arbitration Agreement or "Compromiso" was negotiated by the British Government with Argentina and Chile and pursuant to the provisions thereof the members of the Court were appointed by the British Government, with three of the judges so named

trained in the common law of England, (two of them barristers, Fitzmaurice, Gray's Inn, and Onyeama, Lincoln's Inn, and Dillard, U.S.A.) In fact, Judge Gros, a Frenchman is an Honorary Bencher of the Inner Temple.

The British seized Las Malvinas/Falkland Islands from Argentina in 1833 and have continued to occupy them ever since, despite repeated protests from Argentina.⁹ Moreover, the 200 mile maritime limit of the Islands of Nueva, Picton and Lennox (located next to the Beagle Channel) whether in Argentine or Chilean hands, could very well overlap with those of Las Malvinas/Falkland Islands and, a fortiori, the mineral, petroleum and other resources which lie thereunder. With the award to Chile of the Islands of Nueva, Picton and Lennox as being her territory, it would permit Chile to face out into the Atlantic for the first time and be in conflict with the maritime rights of Argentina, and, incidentally, of Great Britain as well.

So, too, Chile and Argentina should have insisted that Great Britain disqualify herself -- even if only for appearance's sake. It is precisely because now that Chilean waters would overlap British waters that the charge might be leveled that a "political deal" could have been made between Great Britain and Chile whereby Chile agreed to give Great Britain certain oil and mineral exploration rights in the area between the Islands of Nueva, Picton and Lennox and Las Malvinas/Falkland Islands in exchange for Chilean access to the Atlantic, and if Chile were

given these three islands, Chile would urge that the Malvinas should stay in British hands.¹⁰ For that reason the British Government should have withdrawn from this case.

Furthermore, the fact that the President of the Court was British does not help. Sir Gerald Fitzmaurice, the President of the Court, had served as a Legal Adviser for the British Foreign Office from 1945-1960 and before that as a legal adviser in the Ministry of Economic Warfare and, in fact, was knighted for a lifetime of legal service to the Crown. His presence on the Court and, particularly as the President, it could be argued, would add to the conflict of interest, particularly in the light of the statement in the beginning of the Arbitration Agreement or "Compromiso" of 1971 that "Her Britannic Majesty's Government...have determined the Arbitration Agreement (Compromiso) as follows..."¹¹

In his "Inaugural Statement" Sir Gerald on September 7, 1976 in Geneva said:

"...It is not for nothing that two of my colleagues on this Court and I myself, also, were for many years jurisconsults in our respective Ministries of Foreign Affairs. We know what goes on."¹²

On December 13, 1976, some 27 days after the close of the record, one of the members of the Court of Arbitration, Judge Sture Petren of Sweden died. Although he could have been replaced pursuant to Article XI (1) of the Arbitration Agreement or "Compromiso", it was not done.¹³

On January 31, 1977 the Court in its decision hastened to reassure its readers that its deliberation had been completed, on all of the essential aspects of the case, including the conclusions to be reached, by the time of Judge Petréñ's death (December 13, 1976) and that he had taken part in the whole deliberation up to that date and that he had, in fact, already placed his views on record in the form of a written Note and other statements -- none of which, unfortunately, were described or set out anywhere in the Award. In view of the President of the Court's assurance that the decision was unanimous, the interests of justice would be served if Judge Petréñ's Note and papers had been annexed to the decision. In the circumstances, a full disclosure is warranted.

Judge André Gros of France submitted a separate opinion concurring in result but on different reasoning from other members of the Court, despite the Court's assertion that "...the Decision ...was arrived at by unanimity."¹⁴

If the Dispositif was signed on January 31, 1977, and the Court had only had the full record for some 27 days including Saturdays and Sundays, when Judge Petréñ died on December 13, 1976, it is not clear from the record as to what were the views of the five judges on December 13, and we have no way of knowing how they might have differed from those on February 18, 1977. But Judge Gros says something that indicates that the views of the members of this Court may not have been as unanimous as we

were led to believe when he says that:

"I have reached the same conclusions as the Court about the interpretation of Article III of the Treaty of 1881, but by another road and with differences of approach that do not seem to me to call for detailed expression since the Court has not relied upon them but which I would like briefly to indicate." 15

This would seem to cast doubt on Sir Gerald's statement that not only was "...the Decision was arrived at by unanimity" but that the Court's "...deliberation was by then /Judge Petréñ's death on December 13, 1976/ completed on all essential aspects of the case..."¹⁶ Since the Court had the matter sub judice from November 16, 1976 until January 31, 1977 -- and assuming that the Court may have worked all the way through the Christmas and New Year's Holidays of 1976-77 and since it did not rely on the "road" and 'different approach' advocated by Judge Gros -- and the reasoning was not unanimous, it is certainly questionable as to whether it was completed by the date of Judge Petréñ's death on December 13, 1976.

It would also seem that the final decision was obviously not 5-0 but more likely 3 (U.K., U.S., and Nigeria) -- with 1 (France), concurring.

Amusingly enough, however, the fact that this Court was set up by the British Government and staffed with three out of five jurists schooled in the common law (and the other two Judges being French and Swedish) and the proceedings being conducted in English and not in Spanish did not prevent this Court from

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holding itself out (without any qualification or reference to any authority) as authorities on the niceties of the grammar, syntax and vocabulary of the Spanish language. For example, Paragraph 119 of the Award Decision states:

"119. Simultaneously with the text that he communicated on this occasion, Senor Garcia made Lord Tenterden a presentation of a copy in French of a work entitled "La Conquete de la Pampa" by an Argentine geographer, Lt. Colonel Olazcoaga, together with--(Argentine version)-- "the plan of the southern regions which contain the new frontier". The Chilean version of this is "the plan of the southern regions which includes the new boundary"--thus clearly relating the word "includes" to "the plan", whereas the plural sense of the Argentine "contain" relates that word, not to the plan, but to "the southern regions". The original Spanish text appears to be "el plano de las regiones australes que encierra (not encierran) la nueva frontera". Therefore the correct English rendering is that given by Chile ("includes" or "contains"), from which the natural inference would be that the plan was one that showed the Treaty settlement." 17

If there was ever any doubt remaining that this was not a British Court, one only has to re-read the Arbitration Agreement or "Compromiso" of 1971, wherein, not only did Her Britannic Majesty's Government

"...accepted the duty of Arbitrator...the Parties have requested the intervention of Her Britannic Majesty's Government as Arbitrator and that ...Her Britannic Majesty's Government, after hearing the Parties, are satisfied that it would be appropriate for them to act as Arbitrators...and...Whereas for the purpose of fulfilling their duties as Arbitrator, Her Britannic Majesty's Government have appointed a Court of Arbitration composed of the following members..." 18

Moreover when the proceedings before the Court of Arbitration have been completed, it shall transmit its decision to Her

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Brittanic Majesty's Government

"...and if the decision...is ratified by Her Britannic Majesty's Government, they shall communicate it to the Parties with the declaration that such decision constitutes the Award in accordance with the Treaty, and that the Award shall be final..." 19

Any lingering doubt is dispelled by the further language of the Arbitration Agreement or "Compromiso": 20

"Done at London, the 22nd day of July 1971, in the English and Spanish languages, both texts being equally authoritative, in a single original which shall be deposited in the archives of the Government of the United Kingdom who shall transmit certified true copies to the Government of the Argentine Republic, to the Government of the Republic of Chile and to the Court of Arbitration."

Not only was the decision of the Court of Arbitration printed and published by Her Majesty's Stationery Office in English but Her Majesty's Government apparently decided to omit from the printing of the Award some 63 paragraphs of the decision out of a total of 175 or over one third of the decision. The omitted third was entitled by the Court "IV. Confirmatory or Corroborative Incidents and Material". The only readily available complete copy of the Award was in the publication by the Chilean government in October 1977. 21 in which the Agent for Chile there laments,

"Finally, it needs to be pointed out that since there is no version of the Award in the language that is common to both Parties, the only authentic texts are those issued in English by the Arbitrator." 32

In the Treaty of Peace, Friendship, Commerce and Navigation between the Argentine Confederation and the Republic of Chile of August 30, 1855 the two governments agreed ²³

"ART. XXXIX Both Contracting Parties recognize as limits of their respective territories the areas they had at the time of separation from Spanish rule in the year 1810, and agree to adjourn the questions that have been or can be raised on this subject in order that they can be peacefully and amicably discussed, without ever resorting to violent measures and, in the case no full agreement can be reached, to submit the decision to the arbitration of a friendly nation."

Nothing could be plainer, and as the Treaty of 1881 states in its opening paragraph:²⁴

"In the name of Almighty God. The Governments of the Republic of Chile and the Argentine Republic, desirous of terminating in a friendly and dignified manner the boundary controversy existing between the two countries, and giving effect to Article XXXIX of the Treaty of 1856, have decided to conclude a Boundary Treaty..."

But the Court then says that the 1971 Arbitration Agreement or "Compromiso" (which makes absolutely no reference to the 1881 Treaty) requires it to decide solely on the basis of the 1881 Treaty.²⁵ Ironically, the 1881 Treaty which requires "the giving effect of the 1855 Treaty", the Court refused to do. Then, announcing that the Court was bound by the "... the principles of international law", it immediately unshackled itself of one, namely, "Uti possidetis juris of 1810" -- a rule of international law adopted by the Spanish-speaking states in Latin America. This rule is simply that the territories which

were the former administrative divisions of Spanish colonial rule remain the same after independence, and as the Court itself states: 26

"10. As the Court understands the matter, the doctrine has two main aspects. FIRST, all territory in Spanish-America, however remote or inhospitable, is deemed to have been part of one of the former administrative divisions of Spanish colonial rule (vice-royalties, captaincies-general, etc.). Hence there is no territory in Spanish-America that has the status of res nullius open to an acquisition of title by occupation. SECONDLY, the title to any given locality is deemed to have become automatically vested in whatever Spanish-American State inherited or took over the former Spanish administrative division in which the locality concerned was situated (uti possidetis, ita possideatis, the full formula). Looked at in another way, uti possidetis was a convenient method of establishing the boundaries of the young Spanish-American States on the same basis as those of the old Spanish administrative divisions, except that the latter were themselves often uncertain or ill-defined or, in the less accessible regions, not factually established at all,--or again underwent various changes."

But the Court then goes on to jettison the rights of both Parties by saying: 27

"11. However, the Court considers that it is no part of its task to pronounce on what would have been the rights of the Parties on the basis of the uti possidetis juris of 1810 because, in the first place, these rights--whatever they may have been--are supposed to have been overtaken and transcended by the regime deriving from the 1881 Treaty,--see paragraph 7(d)(iii) above. But secondly, it seems that, previous to this date, each of the Parties was, by virtue of uti possidetis, claiming, or had at various times claimed, most of the continent south of the Rio Negro and east of the Andes, down to the far south,--except that, as was only to be expected, the

main emphasis of these claims was placed by Argentina, on the Atlantic seaboard, and by Chile on the Pacific seaboard in the southern regions where the Cordillera of the Andes died away and no longer provided a natural boundary. Thus was adumbrated the so-called "Oceanic" principle, which itself--so it was claimed--derived from uti possidetis. At the same time both Parties also laid claims of sorts to, or in, large areas of the interior,--that is to say continental Patagonia, the Magellanic region, Tierra del Fuego and the Fuegian islands. As will appear later, the Court does not think it necessary to attempt to evaluate the respective merits of these claims, as they stood at that time. (emphasis supplied)

The Court regarded the dispute as concerning a treaty interpretation which had no map to explain it. This apparently also puzzled one of the Judges. Judge Gros, who said in his separate declaration referring to the 1881 Treaty,:²⁸

"The Parties having chosen in 1876 and 1881 not to make any map, or even a sketch of the frontier in the islands, the Treaty is therefore a treaty without a map. After the Treaty no map at all became the subject of a joint discussion or study during the progress of the dispute, or which could in my view be used to elucidate the meaning of a provision of the Treaty which has been already interpreted by the Court on the basis of the intention of the Parties and revealed by the text itself..."

"The maps submitted to the Court are facts which cannot by themselves prove anything against the Treaty when the meaning of the text is held to be or recognized as clear, and they should simply be considered within the context of the relations of the two Parties inter se as I have described them to be special relations concerning frontier problems, the situation is as the Chilean Minister said, namely, that "with such a precise description of the possessions of the two countries in the Treaty it /is/ immaterial what geographers chose to publish on the subject..."

In Article III of the 1881 Treaty it states: "...and to Chile shall belong all the islands to the south of the Beagle Channel up to Cape Horn."²⁰ Certainly, a very clear point of reference. Despite this language in the Treaty, (which Judge Gros, quoting with approval the statement of the Chilean Minister for Foreign Affairs in 1892, points out has such "...precise description of the possessions of the two countries in the Treaty...")³⁰ the Court can say that the term "Cape Horn" in the Treaty cannot mean anything legally. Without citing any authority for its conclusion or its translation, the Court opines:³¹

"There is reason to think that the appellation 'Cape Horn' was often used figuratively as a convenient means of reference, -- and rhetorically in such expressions as 'Hasta el Cabo de Hornos' (as far as Cape Horn), in order to convey the idea of contingent claims or assertions of title, extending in a general southerly direction, to which, however, no precision was given, and which therefore cannot be regarded as juridically meaningful: pointers rather than designations..."

The Court also displays an unusual disdain for maps, in addition to geographic names. The Court did say:³²

"...In the present case it is not a matter of setting up one or more maps in opposition to certain Treaty attribution or boundary definitions, but of the elucidation of the latter, -- in which task map evidence may be of assistance. The problems involved in the present dispute arise from the difficulties created by the structure and language of the 1881 Treaty already discussed, not from its incompatibility with some map, or vice versa, -- and the solution has to be found through the ordinary processes of interpretation, to which cartography may contribute. Thus maps or charts in existence previous to the conclusion of the Treaty in 1881 might be relevant

if, in the circumstances, they could (for instance) throw light on the intentions of the Parties, or give graphic expression to a situation of fact generally known at the time or within the actual, or to be presumed, knowledge of the negotiators..."

The Court made no attempt to reconcile the language of the Treaty at the time of the negotiating of the 1881 Treaty with the geography at that time. That Treaty refers very clearly to "...up to Cape Horn". As mentioned above, both Parties submitted over 400 maps and charts but the Court made no independent investigation of the location of Cape Horn in the maps and charts in existence prior to 1881 as to the location of Cape Horn. In view of the different locations on the maps and charts since 1626 of Cape Horn it may have been that the Parties at the time of the negotiations understood that in the geography of those days (prior to 1881) Cape Horn was considered to be on the 68°34' meridian west of Greenwich. Even a quick examination of the maps and charts made prior to 1881, introduced by both Argentina and Chile, show Cape Horn in different positions at different dates -- further complicated by the fact that a "False Cape Horn" was located some 58 km to the west of Cape Horn. It is unclear whether the map-maker used False Cape Horn or Cape Horn as their point of reference in the maps prior to 1881. This the Court did not go in to.

So that in dividing Tierra del Fuego by the 68°34' meridian "until it touches the Beagle Channel" and "...to south of the

Beagle Channel" could have meant a continuation along the same meridian since it was located on that meridian according to the geography of those days. Interestingly enough, according to modern navigation, Cape Horn is today located at $67^{\circ}16'3''\text{W}$ and False Cape Horn at $68^{\circ}03'4''\text{W}$. The 1881 Treaty does not say that the Beagle Channel is the end of the line dividing Tierra del Fuego. It is obvious that the boundary line continues from where it crosses the Beagle Channel to where it ends at Cape Horn. Otherwise, the term "up to Cape Horn" is meaningless.

Nowhere in the Arbitration Agreement or "Compromiso" of 1971 are the words "Beagle Channel" to be found. The agreement was simply a request by both Parties for a determination of what the boundary is between both countries. It would seem that this Court was more intent on delimiting the Beagle Channel, than recognizing that "Cape Horn" was the end of the boundary. But it is irrelevant as to where the Beagle Channel is or in which direction it flows. The plain, simple language of the 1881 Treaty divides Tierra del Fuego along the North-South meridian $68^{\circ}34'$ West of Greenwich until it touches Beagle Channel. Even the most optimistic Chilean could not conceive that the Argentines meant their property to end there and that Argentina conceded everything else to Chile. Instead, the balance of Article III divides up the remaining area--to the East by the meridian up to (or down) Cape Horn would be Argentine and to the West of the meridian would be Chilean. Knowing that the

end of the continent was at Cape Horn, not the Beagle Channel, it was logical to have the boundary end at Cape Horn. In fact, an examination of the maps and charts in the proceeding show that in the 19th Century the location of Cape Horn was further West than is fixed by modern celestial navigation(at 55°59S., 67°16W, "Sailing Directions", U. S. Navy Hydrographic Office)³³ False Cape Horn is and was in the older maps and charts further West by almost one degree. One cannot accurately apply 1976 celestial navigation to maps and charts made prior to 1881 any more than one can accurately apply the art or science of navigation as existed prior to 1881 to 1976 maps or navigation charts.

Cape Horn, nevertheless, as a matter of universal knowledge, was understood to be the Southern tip of the continent and there was a Cape Horn on all the maps and charts in existence. There was no effort by this Court to sort out the boundaries as described in those maps and charts. There was no effort made by the Court to look into the geographic history of the two countries -- namely, what they "inherited" from Spain. From there to follow the boundaries through successive generations of maps and charts would have permitted the Court to explain the boundary question geographically and historically rather than through an attempt to psychoanalyze the minds of the negotiators of the 1881 Treaty, (a Treaty with no map). What the negotiators of

the 1881 Treaty understood Cape Horn to be -- and it could only come from the maps and charts at their disposal at that time should be controlling. A Court in 1976 cannot substitute its guess at what the Parties understood in 1881, educated as the Court may think it is. It is a reductio ad absurdum for this Court, or any other Court, to say blithely, without any substantiation, that "Cape Horn" is a figurative expression with no precision or meaning. There are such organizations as the Royal Geographical Society, not to mention others, who would have been happy to point out that "Cape Horn" is "Cape Horn", not a "pointer" but a specific designation at the end of the South American continent, and that it is not the same kind of term as "the Orient" or "the West". In fact, since this Court was constituted by Her Majesty's Government, it is unfortunate that this Court did not avail itself of the treasure trove of maps and charts in the Royal Geographical Society showing not only the history of the boundaries but also the location of Cape Horn extending back to the 17th Century.

In other words, the Court is assuming that what is understood in 1976 as to the location of Cape Horn is not necessarily the understanding of the Treaty negotiators in 1881. By eliminating "Cape Horn" from consideration, the Court resorts to the Beagle Channel as the boundary.

It is unfortunate that the Court did not insist on its being completely informed as to the geographic history of the

Southern end of South America. For certain what is now the Argentine Republic was formerly known as Viceroyalty of Rio de La Plata. As H. M. Breckinbridge, secretary of an American mission sent to South America in 1817 wrote in his two volume report published in London in 1820, Voyage to South America:³⁴

"Including Patagonia, the Viceroyalty of La Plata was the most important in extent of territory of any of the Spanish governments in America. The provinces of Upper Peru alone (added to it in 1778) are as extensive as New Granada, and more so than Lower Peru or Lima, and equal, at least, to the whole of the United States east of the Mississippi. La Plata stretches from the northernmost part of the province of Moxos, in twelve degrees south to the Cape Horn, it extends to the Pacific between lower Peru and Chile, in the province of Atacama it is bounded by the Portugese dominions on the north and east, and separated from Peru by the river Desaguadero, or drain of lake Titicaca; on the east it is washed by the Atlantic, and in the west separated from Chili by the Cordillera." Vol. II, p. 1

It is difficult to comprehend from a purely legal viewpoint how this Court could reject out-of-hand the cold, basic fact that the historical division of the two countries terminated at Cape Horn. After the Treaty of 1881 the two countries entered in a Protocol in 1893 which provides very simply: ³⁵

"According to the spirit of the Boundary Treaty of 1881, the Argentine Republic retains her dominion and sovereignty over all the territory that extends from the East of the principal chain of the Andes as far as the Atlantic coasts, just as, the Republic of Chile over the Western territory as far as the Pacific coasts; it being understood, that by the provisions of that Treaty, the sovereignty of each state over their respective

coast lines is absolute, in such a manner that Chile cannot lay claim to any point towards the Atlantic, just as the Argentine Republic can lay no claim to any toward the Pacific."

The fact that such a line would bisect the islands south of the Beagle Channel as it progresses south to Cape Horn does not or cannot cause any problem because it divides up an island or two -- after all, the 1881 Treaty itself had already divided the island of Tierra del Fuego.

It strains one's credulity that after reading the Treaty of 1855, as amplified by the Treaty of 1881 and confirmed by the Protocol of 1893 that the Court could expect a reader of its decision to agree with the Court that the Treaty of 1881 cancels out both the Treaty of 1855 and the applicability of the principle of uti possidietis -- almost as if the Treaty establishing the United Nations had thereby not only abolished the Organization of American States but also the Monroe Doctrine.

III. Conclusion

There may be concern about the length of time an arbitration such as this can take. This matter began in 1971 and continued for almost 6 years. While the initial phases may seem unduly protracted, certainly the Court did not envisage that much time would be needed for a decision. As the President of the Court, Sir Gerald Fitzmaurice said in his "inaugural statement" of September 7, 1976 as the proceedings opened "...has been agreed between the Court and the Parties with a view to terminating the hearing by about the last week in October. The Court thereafter will hope to produce its report by about the

end of November..."³⁶ Despite that hope and the fact that the hearings ended October 23, 1976, the death of Judge Petrén on December 13, 1976 may have been the cause of the delay since the decision was not issued until February 18, 1977 so that it could be argued that the Court's statement "...that its deliberation was by then completed on all essential aspects of the case, including the conclusions to be reached" is questionable.

It would seem that in view of the length of time to reach the point of trial that the decision was arrived at very swiftly, statements to the contrary notwithstanding. One point the case does highlight is that when such cases are set in motion in the future the health and well-being of the Judges should be looked into so as to insure that the death or impairment of health of a judge or judges does not jeopardize a hearing because of the tremendous investment involved by all sides including the Court's.

While it might be argued that the Argentine Government does not have any of the classical bases to declare the Award a nullity, it is submitted that in view of the conflict of interest, the failure of the Court to address itself to the contention that the Tierra del Fuego dividing line extends to Cape Horn, the Court's violation of the Arbitration Agreement's requirement in Article XIII (2) "The decision shall decide definitively each point in dispute and shall state the reasons for the decision on each point." and, in the words of one commentator:³⁷

"The Beagle Channel case is remarkable among boundary arbitrations in that the arguments and claims of one of the parties were virtually completely endorsed and the final decision was in conformity with the contentions of that party."

that the Argentine Government is justified in refusing to accept the award and the Chilean Government would be well advised to reconsider its acceptance. It would be far better practice to reopen the matter if both parties would agree and have the arbitration before lawyers trained in the civil law, or perhaps it would be better for the matter to be worked out bilaterally.

While the agreement of both Parties to accede to the request of the Vatican to refrain from hostilities is most laudable, the attempts to mediate the issue by the Vatican must evoke certain reservations. It is difficult to insure that in such a mediation that other influences do not come into play. For example, the fact that both countries are predominantly Roman Catholic should not enter into the solution of a legal problem. The temptation is present for religious considerations to be used to overcome legal arguments. A mediation, unfortunately, is nothing more than "give and take", with the result that both history and legal rights can be cast aside. The rôle of the Vatican should have ceased when it accomplished, in an excellent manner, the withdrawal of the armed forces from the border of the two countries. At that point it should have been left up to the two governments as to how they would then proceed. Further Vatican intervention may not serve any useful purpose. One has

only to recall the intervention of an English Pope, Adrian IV, who asked an English King, Henry II, to intervene in Ireland in 1155 to set about the reform of the problems that had arisen there and which are still there.³⁸

Negotiations are going on now between Great Britain and the Vatican looking forward to the resumption of diplomatic relations which were broken in 1532 when King Henry VIII fought with the Vatican over its refusal to grant him a marriage annulment. However, it is hoped that this recent intense activity of the Vatican diplomats in trying to mediate this dispute between Argentina and Chile does not imply that the Vatican must support Great Britain's Arbitration Award of April 18, 1977 in order to bring about the resumption of diplomatic relations.

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FOOTNOTES

1. Decision of the Court of Arbitration, February 18, 1977, reprinted in 17 International Legal Materials, 633, 634 (1978) [hereinafter cited as Arbitration Decision].
2. Arbitration Decision, p. 643
3. Id., p. 645
4. Id., p. 643
5. Id., p. 646
6. Id., p. 647: Treaty of 1881 is set out in full in the Arbitration Decision.
7. Id., p. 638: Part I (C)
8. Id., p. 641: Part I (D)
9. Encyclopaedia Britannica, Vol. VI, pp. 420-473
10. One would do well to recall that the Governments of Chile and Great Britain at this time could at least be considered sympathetic to each other.
11. Arbitration Decision, p. 638
12. Controversy Concerning the Beagle Channel Region Award, Republic of Chile (1977), p. 360: This was omitted from the formal decision.
13. Id. p. 640: Article XI (1) of the Arbitration Agreement states that "should any member of the Court die..., the vacancy shall not be filled unless the parties agree otherwise."
14. Id., p. 643
15. Id., p. 674; concurring opinion of Judge Gros of France
16. Id., p. 643
17. Controversy Concerning the Beagle Channel Region, p. 200: Again, this passage was not submitted in the final decision.
18. Arbitration Award, pp. 637-638
19. Id., p. 640

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FOOTNOTES Cont'd

20. Id., pp. 640-41
21. Controversy Concerning the Beagle Channel Region Award; Republic of Chile, 1977
22. Controversy Concerning the Beagle Channel Region, p. XIV; statement of Jose Miguel Barros, Ambassador and Agent for the Republic of Chile
23. Treaty of Peace, Friendship, Commerce and Navigation; August 30, 1855, Chile-Argentina: Argentine Government Publication (Buenos Aires)
24. Arbitration Award, p. 646: The text of the 1881 Treaty is reprinted in full in the Award.
25. Id., p. 646
26. Id., p. 645
27. Id., p. 645
28. Id., p. 675: Judge Gros in a concurring decision.
29. Id., p. 647
30. Id., p. 675
31. Controversy Concerning the Beagle Channel, p. 186
32. Id., pp. 216-218
33. "Sailing Directions", U. S. Navy Hydrographic Office (1981) pp. 236-237
34. Breckinbridge, H. M.: Voyage to South America, London (1820); 2 Vols.: Vol. II, p. 1
35. Chile Controversy, p. 142: As with many other important points, this, too, was omitted from the formal decision
36. Id., pp. 369-370
37. Shaw, Malcolm, "The Beagle Channel Arbitration Award; Journal of Liverpool Polytechnic Institute (November 1978); p. 439
38. The Course of Irish History; Ed. by Oliver Moody and F. X. Martin; Dublin (1967)





**CONCLUSION OF THE RESEARCH DOCUMENTATION
PREPARED BY WILLIAM R. JOYCE, JR. ESQ
FOR THE
ARGENTINE AIR FORCE**

3 June 1982

To: General Ricardo A. Peña
From: Mr. William Joyce

MEMORANDUM

The Argentine Government now has in its possession a complete index to all the official documents of whatever description in the British Foreign Office and the British Colonial Office relating to Las Malvinas. This is prima facie evidence of the existence of such documents and in most cases includes a brief description of the documents. Not only can the British not deny the existence of such documents, but they can be identified specifically. For example, in any negotiations these documents can be requested by index number. Refusal to now produce them (since they are now known to exist) can lead to the accusation that the British Government has something to hide by failing to produce them.

Secondly, the Argentine Government now has copies of all of the early correspondence in the Colonial Office Archives relating to Las Malvinas. This correspondence indicates that there probably was some arrangement with the Spanish Government circa 1770 after the Spaniards took possession whereby Great Britain gave up its possession of Las Malvinas and its claim to sovereignty. There are also copies of Colonial Office correspondence in which various British Government Officials admit that "Great Britain had abandoned the islands" or that "...it had given up dominion over the islands" as well as statements that Britain had seized or captured the islands on December 23, 1832. There is also legal proof that when Great Britain recognized Argentina in 1825, it also recognized Las Malvinas as part of Argentina which succeeded to the islands when it obtained independence from Spain.

It was extremely important that the Argentine Government obtain this information even while hostilities were going on, because there is the danger that all the documents both in the Foreign Office as well as the Colonial Office right at any moment be removed from the Public Records Office. In fact, according to THE TIMES of London of April 12, 1982 many files of the Foreign Office were transferred to the British Foreign Ministry. (However, they forgot the index and the Colonial Office Files).

Now that the Government has this information, considerations should be given to how it should be used. I can suggest two possibilities. First the material could be used as a basis for a "white paper" to be issued by the Government. I would be delighted to participate in the preparation of it. Or, secondly, I could write an article for publication in an appropriate journal or review as to the rights of sovereignty of the Argentine Republic to Las Malvinas from an Anglo-American legal point view.

In either of the above alternatives the basis would be the British Government's own documents and using them against the British position. However, there may be some useful "ammunition" from U.S. Archives particularly that relating to the attack of the U.S.S. Lexington on the islands in 1831. There was apparently an exchange of correspondence between Buenos Aires and Washington over Argentina's demand for compensation for damages sustained in their attack. The central issue there resolved around the question of whether the Government in Buenos Aires in 1831 had sovereignty over the islands at the time of the attack. I have not researched this problem because it involved the United States and is further complicated by the British capture of the islands in 1832.

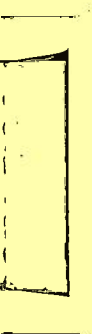
If the Argentine Government wishes either of these two suggestions to be done, I would believe that it would take approximately 4 to 6 weeks to prepare on a full time basis. I do not believe a satisfactory paper could be done in a shorter time.

Another area of interest is to determine the nature of the ownership of the islands under British law. It would appear that Foreign Minister Costa Mendez's suggestion "that persons close to the Crown" may own a considerable portion of the assets is undoubtedly true. However, attempting to learn of private ownership in this case is not easy -- and worse so if persons close to the Crown are involved.

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SUMMARY

SUMMARY

Under Anglo-American law the Argentine Government is in a unique position as to the legal question of the sovereignty of Las Malvinas simply because it not only is in possession of the islands but has proof of its rights to the ownership from the British government's own files. The Argentine government has scored a tremendous victory by obtaining this information from the British archives. However, until it is used it should be kept absolutely secret. In my opinion the reason that the British do not want to discuss sovereignty is that they know they will fail. Their own documentation going back to 1771 demonstrates that the Royal Navy surrendered the islands to the Spaniards when Major General Madariaga of this Catholic Majesty's Royal Navy received a demand for Articles of Capitulation from a Captain Maltby, the Commander of H.M.S. Favourite on June 10 1771. Subsequently the Spanish government entered into an agreement with the British government whereby the British could gradually give up its rights to the islands. (See Gandía, Las Islas Malvinas y la Cláusula Secreta de 1771. Buenos Aires 1964). Exhibit A. This agreement was on oral understanding with William Pitt, the British Prime Minister who was concerned lest his opposition in Parliament learn of this capitulation.

This is confirmed by the letter, dated February 11 1774, of Lord Rochford, Secretary of State to the Prime Minister, Lord Grantham when the British left certain marks on the islands and didn't want this fact brought to the attention of the Spanish authorities (Exhibit 1 page2).

Exhibit 2 is a letter to the British Admiralty dated May 20th 1774 from Lieutenant Clayton of the H.M.S. Penguin which proves that he was instructed by the Admiralty to leave the islands and that he took on board his ship as much of the supplies that he could and left a plate behind attempting to assert possession

-even though he had been instructed to abandon the islands (Exhibit 2 page 1).

The result of the above is compelling evidence that the British surrendered possession of the islands in 1771 and in 1774 finally abandoned them.

There is nothing on file in the archives of the British Foreign Office relating to Las Malvinas which were available for inspection when I searched the archives. (See N°3 above). This proves that prior to 1810 the British government considered Las Malvinas to be a matter of foreign affairs since they were owned by Spain. Further proof of this is that the first entry in the Colonial Office archives was made in Volume 1 1831-1834. Original Correspondence so that the deduction is that according to the British government archives, Las Malvinas was no the property of the British government until 1831 (it is unclear why the Colonial Office index begins in 1831 rather than 1832). See N°3 above.

After Argentina obtained its independence from Spain in 1810, Great Britain did not recognize Argentina until February 2 1825 when both governments signed a Treaty of Amity, Commerce and Navigation. However, in that Treaty there was no "reservation" by Great Britain whereby Great Britain maintained that Las Malvinas belonged to it. In other words when Great Britain recognized "... the Territories of the United Provinces of Rio de la Plata... and in any part of the said Territories..." (Clause II of said Treaty) it recognized Argentine sovereignty over Las Malvinas since it had been Spanish territory prior to 1810. In fact neither does the Treaty between Spain and Argentina have any reservations concerning Las Malvinas. Thus the Treaty itself between Great Britain and Argentina proves that between 1810 and 1825 that Great Britain acknowledged that the sovereignty over the islands was in Argentina.

After 1825, I note that the documents I was able to obtain from the British archives talk about the strategic position of Las Malvinas and how helpful they would be for the trade of the Pacific. The earliest indication is a letter dated March 15 1829 to the Colonial Secretary, Lord Aberdeen, from the British Chargé d'Affairs in Buenos Aires, Woodbine Parish, indicating that the then Argentine Government was going to establish a penal colony on the islands as well as having granted sealing rights and cattle raising rights. This apparently was the first occasion when a question of sovereignty was raised by the British. But Mr. Parish found these islands might be of greater value since "... the Commerce of the Pacific is open to the world, they may perhaps be thought of much greater value than formerly when His Majesty discussed his Rights with the Court of Spain". (Exhibit 3 pp 2-3). Mr. Parish who tells of the Spanish government "... previously to the South American Revolution constantly to maintain a guard in one of the islands over convicts who were sent there for punishment... from the year 1813 this practice was discontinued, but the Buenos Ayreans have not the less, ever since, considered the Territory as belonging to them, and as far as I can learn, they have now some idea of occupying it in the same manner and for the same purposes as the Spaniards did".

A further communication from Mr. Parish to Lord Aberdeen, dated April 25 1829, refers to "... copies of grants which have been made by the Government of Buenos Aires of the isla of Soledad..." and speaks of the marvelous sources of food which are present as the result of the efforts of Mr. Luis Vernet. Mr. Parish also believed that this grantee of the Buenos Aires government "... would, I believe be happy if H.M.S Government would take his settlement under their protection... and intends to pass, he says, some years there, in promoting the objects of this Colony" (Exhibit 4).

On June 5 1829 a Mr. J. Backhouse of the British Foreign Office

writes to Mr. R.W.Hay of the British Colonial Office about "... the Report of the officer by whom our people were with drawn from there in 1774, and of a dispatch of Lord Rochford, then Secretary of State, describing the motive of that proceeding. These islands are not mentioned in any subsequent Treaty with Spain; and no trace has been focused of any such correspondence as you suppose may have taken place whereby Great Britain agreed to a permanent cession of them. On the other hand, you are doubtless aware that the Spanish Ambassador at the same time that he communicated the orders of his Court in 1771 that possession of the islands (which had been forcibly wrested from us by a Spanish squadron in the preceding year) should be restored to Great Britain. -declared that such restoration "could not thought not to affect the question of the prior right of Sovereignty". Thus, the matter appears to have been left. Spain did not withdraw her pretensions to the right; but Great Britain, being then in possession, declared on withdrawing her troops from the islands in 1774, -that they were "the sole right and property of Great Britain.. Whatever right we possessed there, we appear to have still" (Exhibit 5)

On November 20, 1830 Mr. Woodbine Parish, the British Chargé d'Affaires at Buenos Ayres makes some compromising statements which support the Argentine claim to sovereignty. He states in this letter addressed to the Prime Minister, Lord Aberdeen, that he obtained access to the "Old Archives" of the government of H.C.M. in these Parts" and discovered some curious original Papers which he describes

"The first is the receipt signed by Mr. de Bouganville in the year 1766 for the sum of 618.108 french livres, paid to him by order of the Court of Spain in reimbursement of the expenses incurred in forming the settlement of Soledad, and upon which the repayment of which it appear that the French Government had ordered him to give over the settlement in question to the Spanish Authorities"

"The Second Paper is dated in April 1774 and is an instruction from the Spanish Government to their Commandant at the Falklands (a Copy of which was forwarded

at the time to Buenos Ayres).
"Referring to an offer stated to have been made by the Court of London to their settlement on the Great Falkland and desiring the said officer to report whether the said abandonment did, in consequence take place, and to watch that the English did not return or form settlements on any other part of those Courts"
"From the same Records I find that toward the end of 1775 a Spanish Officer named Callegas, in pursuance of these Orders united the remains of our settlement at Port Egmont and discovered there the inscription left by Captain Clayton upon his quitting the place the year before..."
(emphasis supplied) (Exhibit 6)

Thus, we have clear and convincing evidence that according to documents in the British archives written by a British diplomat the British did abandon the Falkland Islands.

Another statement made by a British diplomat before they seized the islands and which is found in a letter to the British Prime Minister, Lord Palmerston dated October 15 1832 by the British Ambassador to Buenos Ayres, Mr. H.S. Fox:

"...but that, on the contrary in the event of the Falkland Islands becoming at some future day, a peopled and organized British Settlement..."
(Exhibit 7, p.10)

This statement would prove that as of October 15, 1832 Las Malvinas was not a British settlement.

After December 23 1832

On January 20, 1833, almost a month after Captain Onslow of the Royal Navy took possession of Las Malvinas on December 23, 1832, Belford Hinton Wilson, H.M. Consul General for Perú, and a great friend of Simón Bolívar, visited Las Malvinas and wrote a long memorandum (Exhibit 8) describing what he found on these islands.

In the transmittal letter of this memorandum to the Prime Minister, Lord Palmerston, he states:

"... Having had and opportunity of visiting those islands in His Majesty's Ship, "Tyne" and as an object of that Vessel in Calling at the Falkland Islands, formed part of an arrangement consequent on the request of your Lordship to the Admiralty that one of His Majesty's Ships should be sent to the Falkland Islands, for the purpose of reassuming possession of them, in the Name of His Britannick Majesty..."

Exhibit 8 p.1)
(emphasis supplied)

This is clear and convincing evidence that the islands were not in the control of or in the possession of Great Britain, as of the date of this letter of January 20, 1833. In other words, this is absolute proof that prior to December 23, 1832, the sovereignty of Las Malvinas was in Argentina and not in Great Britain.

This is further supported by the statements of this same memorandum (Exhibit 8), that the Captain Onslow who had arrived in Las Malvinas "... had made known to the Buenos Ayreans settled in that island, that he had come to take possession of it in the name of His Britannic Majesty..." (Exhibit 8 p.14). He also follows that with the statement "... with the Buenos Ayreans Government of these islands, which, taken in conjunction with the former proceedings of the Governor, may be considered as indicative of the system of Government likely to have followed their permanent dominion over them..." (Exhibit 8, p.9-10)

Here again this proves unquestionably that Las Malvinas was not in possession of the British prior to December 23, 1832 and that without any question the British took possession of the islands and the sovereignty thereof.

This Wilson memorandum goes on to state that the Government of Buenos Ayres "... had in 1820 sent a frigate commanded by Captain

Jewett to take possession of the Falkland Islands as dependencies of the Argentine Republic and in 1823, appointed a Governor..." (Exhibit 8)

Here again we have a statement made by a British official admitting that possession and thereby sovereignty was in the Argentine Republic as of 1820-1823.

Another statement confirming the Argentine sovereignty of the islands is found in the same memorandum wherein it is stated "...the Government of these islands has passed into the hands of the English ..." This again is positive evidentiary proof that the English had taken sovereignty from the Argentines (Exhibit 9 p32)

Final proof of the seizing of Las Malvinas is found in the next-to-last paragraph of the Wilson memorandum where he states:

"... I have therefore only now to apologize for their minuteness which perhaps may be deemed as trifling, and also for the observations which I have offered on them, but under all the circumstances attending the recent re-assumption of Dominion over the Falkland Islands..." (Exhibit 8 p40)

The next document chronologically I found in the Colonial Office archives was a petition to the Colonial Secretary, Lord Normandy, on July 24, 1839 for compensation for Mr. Luis Vernet for property losses he sustained when the British government confiscated his property on Falkland Islands. In the petition addressed to Lord Normandy it is stated:

"The Falkland Islands originally belonging to Great Britain, colonized by the Spaniards were in the year 1765 taken possession of by the British Government but subsequently abandoned, from which time they ceased to be inhabited..." (Exhibit 9, p 1)

The above proves that there is relevant competent and material

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evidence that the British did take possession and obtained sovereignty over Las Malvinas and that they subsequently abandoned them and later re-took them from Argentina. This evidence is incontrovertible proof and is further strengthened by the fact that the evidence is the written documentation of the British government itself. No amount of 20th century writing or verbal statements of the British government can change this written evidence which the Argentine government now has in its possession. No British government official can now say that these documents do not mean what they said when they were written. I will not be surprised if the British are shocked by the possession of these archives by the Argentine government.

I strongly recommend that how the legal issue of sovereignty of Las Malvinas to be used be very carefully considered. Because the British have such direct and indirect influence in the International Court of Justice (The World Court) that it is possible for a result similar to that in the Beagle Channel Case to happen if this matter should go to the World Court. It should be remembered that under Anglo-American procedure, since Argentina is now in possession of Las Malvinas that the burden of proof is on Great Britain to establish its sovereignty to the islands. In view of the documents we now have from the British archives, it is almost impossible for them to justify claiming sovereignty now, since they seized the islands by force in 1832 and now that Argentina has possession they cannot say that Argentina cannot claim them because Argentina used force. Britain cannot have it both ways. They can only assert sovereignty by possession. Britain has avoided any discussion of sovereignty, it only talks of "possession". That is why it is critically important that Argentina prohibits Great Britain from taking possession even while sovereignty may to be discussed later.

My immediate suggestion is that since a forum such as the World Court would be dangerous to Argentine interest, perhaps consideration should be given to have the Organization of American States be

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the forum for Great Britain to try to prove sovereignty. It would also seem to me that it is very difficult to even have an arbitration before disinterested arbitrators -even the Vatican have to be ruled out (see the last paragraph of my article on the Beagle Channel Arbitration).

However, from the Anglo-American legal view point, Argentina cannot permit its occupation and possession of Las Malvinas to be the issue -it is rather Britain's claim that is the issue. Britain is the claimant to the islands. When Britain attempt to prove its case, Argentina can demand that all of Britain's archives be made available for public inspection, Argentina now knows the extent and identification of all these documents. Why are some of these files not available for 50 years or 75 years or even 100 years? What is Great Britain hiding? Why did the British Foreign Ministry suddenly removes a number of documents from its Archives? As The Times of London put it on Monday, April 12, 1982:

"...a significant increase in the number of large cardboard boxes being carried in Government vans ... to the Foreign and Commonwealth Office in whitehall. Could it have anything to do with Falkland Islands? Surprisingly, yes. The boxes contained historical documents, some of these more than 150 years old, demonstrating Britain's legal right of sovereignty over the islands..."

If they would prove the British legal right of sovereignty why are they hidden -why are they not published? The legal conclusion is that at least they do not help the British case. Therefore, the next step should be that somehow, someone (not Argentina necessarily) should force Great Britain to state the legal basis for its claim on sovereignty.

We have also acquired considerable documentation concerning the Falkland Islands Company from its inception. However, it is extremely difficult to tell from it who the ultimate owners or benefi-

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ciaries of the shares of stock are. This information may only be available from the British banks involved and they are not inclined to reveal their banking customers interest except on order from a British Court. Unfortunately, these documents are not official British government publications but are commercial ones. The fact that they were included in the Colonial Office files can probably be explained on the basis that it was a new organization -namely, the Falkland Islands Company on a new British Colony and needed Colonial Office approval. (Exhibit 10)

I can only conclude this paper by stating that the British claim to Las Malvinas could be one of the most interesting legal questions today. Argentina has everything to gain by not giving possession of the islands to Great Britain and everything to lose if it does. Venezuela negotiated with Great Britain for over 120 years concerning its rights to territory in British Guyana and nothing happened. There Venezuela had the burden of proof with the British in possession of their case, the situation is reversed with Argentina in possession and the British having the burden of proof. Argentina has the advantage of knowing ahead of time while Great Britain might rely upon and therefore based on the above can anticipate what legal position it wishes to take. In the political position of Argentina can be supported by the legal basis provided by the documentation obtained by me from London.

The crucial question which (under Anglo-American law is the correct procedure if this were court litigation) must be asked of the British:

"Exactly what will you do if Argentina can prove that Argentina has sovereignty over Las Malvinas/Falkland Islands?"

This question must be asked until the British state exactly what they will do if Argentina can prove it sovereignty. There should be no negotiations with the British until they have agreed with Argentina as to what they (the British) will do.

Otherwise the negotiations will be aimless.

SUMMARY

Under the rules of evidence or proof of the Anglo-American legal system, the Argentine Government is in a unique position concerning the legal question of the sovereignty of Las Malvinas even though it is not in possession of the islands, but has proof of its rights to the ownership according to the British government's own documents. The fact that Argentina does not have possession does not mean that Argentina cannot prove sovereignty. The Argentine government has scored a tremendous victory by obtaining this information from the British archives. However, until it is used it should be kept absolutely secret. In my opinion the reason that the British do not want to discuss sovereignty is that they know they will fail. Their own documentation going back to 1771 demonstrates that the Royal Navy surrendered the islands to the Spaniards when Major General Madariaga of His Catholic Majesty's Royal Navy received a demand for Articles of Capitulation from a Captain Maltby, the commander of H.M.S. Favourite on June 10 1771. Subsequently, the Spanish government entered into an agreement with the British government whereby the British would gradually give up its rights to the islands. (See Gandía, Las Islas Malvinas y la Cláusula Secreta de 1771. Buenos Aires 1964). Exhibit A. This agreement was an oral understanding with William Pitt, the British Prime Minister who was concerned lest his opposition in Parliament learn of this capitulation.

This is confirmed by the letter, dated February 11 1774, of Lord Rochford, Secretary of State to the Prime Minister, Lord Grantham when the British left certain marks on the islands and didn't want this fact brought to the attention of the Spanish authorities. (Exhibit 1 page 2).

Exhibit 2 is a letter to the British Admiralty dated May 20th 1774 from Lieutenant Clayton of the H.M.S. Penguin which proves that he was instructed by the Admiralty to leave the islands and

that he could and left a plate behind attempting to assert possession even though he had been instructed to abandon the islands (Exhibit 2 page 1).

The result of the above is compelling evidence that the British surrendered possession of the islands in 1771 and in 1774 finally abandoned them.

There is nothing on file in the archives of the British Foreign office relating to Las Malvinas which were available for inspection when I searched the archives (See N°3 above). This proves that prior to 1810 the British government considered Las Malvinas to be a matter of foreign affairs, and not colonial affairs, since they were owned by Spain. Further proof of this is that the first entry in the Colonial office archives was made in Volume 1 1831-1834. Original Correspondence so that the deduction is that according to the British government archives, Las Malvinas was no the property of the British government until 1831 (it is unclear why the Colonial Office index begins in 1831 rather than 1832). See N°3 above.

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After 1825, I note that the documents I was able to obtain from the British archives talk about the strategic position of Las Malvinas and how helpful they would be for the trade of the Pacific. The earliest indication is a letter dated March 15 1829 to the Colonial Secretary, Lord Aberdeen, from the British Chargé d'Affairs in Buenos Aires, Woodbine Parish, indicating that the then Argentine Government was going to establish a penal colony on the islands as well as having granted sealing rights and cattle raising rights. This apparently was the first occasion when a question of sovereignty was raised by the British. But Mr. Parish found these islands might be of greater value since "... the Commerce of the Pacific is open to the world, they may perhaps be thought of much greater value than formerly when His Majesty discussed his Rights with the Court of Spain". (Exhibit 3 pp 2-3). Mr. Parish who tells of the Spanish government "... previously to the South American Revolution constantly to maintain a guard in one of the islands over convicts who were sent there for punishment... from the year 1813 this practice was discontinued, but the Buenos Ayreans have not the less, ever since, considered the Territory as belonging to them, and as far as I can learn, they have now some idea of occupying it in the same manner and for the same purposes as the Spaniards did".

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On November 20, 1830 Mr. Woodbine Parish, the British Chargé d'Affaires at Buenos Ayres makes some compromising statements which support the Argentine claim to sovereignty by admitting that Spain purchased the islands from the French. He states in this letter addressed to the Prime Minister, Lord Aberdeen, that he obtained access to the "Old Archives of the government of H.C.M. in these parts" and discovered some serious original Papers which he describes:

"The first is the receipt signed by Mr. de Bouganville in the year 1766 for the sum of 618.108 french livres, paid to him by order of the Court of Spain in reimbursement of the expenses incurred in forming the settlement of Soledad, and upon which the repayment of which it appear that the French Government had ordered him to give over the settlement in question to the Spanish Authorities"

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(emphasis supplied) (Exhibit 6)

Thus, we have additional clear and convincing evidence that according to documents in the British archives written by a British diplomat the British did abandon the Falkland Islands.

Another statement made by a British diplomat before they seized the islands and which is found in a letter to the British Prime Minister, Lord Palmerston dated October 15 1832 by the British Ambassador to Buenos Ayres, Mr. H. S. Fox:

"... but that, on the contrary in the event of the Falkland Islands becoming at some future day, a peopled and organized British Settlement..."
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This statement would prove that as of October 15, 1832 Las Malvinas was not a British settlement.

After December 23 1832

On January 20 1832, almost a month after Captain Onslow of the Royal Navy took possession of Las Malvinas on December 23, 1832, Belford Hinton Wilson, H. M. Consul General for Perú, and a great friend of Simón Bolívar, visited Las Malvinas and wrote a long memorandum (Exhibit 8) describing what he found on these islands.

In the transmittal letter of this memorandum to the Prime Minister, Lord Palmerston, he states:

"...Having had and opportunity of visiting those islands in His Majesty's Ship, "Tyne" and as an object of that Vessel in calling at the Falkland Islands, formed part of an arrangement consequent on the request of your Lordship to the Admiralty that one of His Majesty's Ships should be sent to the Falkland Islands, for the purpose of reassuming possession of them, in the Name of His Britannic Majesty..."

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This is clear and convincing evidence that the islands were not in the control of or in the possession of Great Britain, as of the date of this letter of January 20, 1833, the sovereignty of Las Malvinas was in Argentina and not in Great Britain.

This is further supported by the statements of this same memorandum (Exhibit 8), that the Captain Onslow who had arrived in Las Malvinas "... had made known to the Buenos Ayreans settled in that islands, that he had come to take possession of it in the name of His Brittanic Majesty..." (Exhibit 8 p 14). He also follows that with the statement "... with the Buenos Ayreans Government of these islands, which taken in conjunction with the former proceedings of the Governor, may be considered as indicative of the system of Government likely ot have followed their permanent dominion over them (Exhibit 8, p9-10).

Here again this proves unquestionably that Las Malvinas was not in possession of the British prior to December 23, 1832 and that without any question the British took possession of the islands but not the sovereignty thereof.

This Wilson memorandum goes on to state that the Government of Buenos Ayres "... had in 1820 sent a frigate commanded by Captain Jewett to take possession of the Falkland Islands as dependencies of the Argentine Republic and in 1823, appointed a Governor..." (Exhibit 8).

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Another statement confirming the Argentine sovereignty of the islands is found in the same memorandum wherein it is states "... the Government of these islands has passed into the hands of the English ...". This again is positive evidentiary proof that the English had taken sovereignty from the Argentines (Exhibit 9 p32).

Final proof of the seizing of Las Malvinas is found in the next-to-last paragraph of the Wilson memorandum where he states:

"... I have therefore only now to apologize for their minuteness which perhaps may be deemed as trifling, and also for the observations which I have offered on them, but under all the circumstances attending the recent re-assumption of Dominion over the Falkland Islands ..."
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The next document chronologically I found in the Colonial Office archives was a petition to the Colonial Secretary, Lord Normandy, on July 24 1839, for compensation for Mr. Luis Vernet for property losses he sustained when the British government confiscated his property on Falkland Islands. In the petition addressed to Lord Normandy it is states:

" The Falkland Islands originally belonging to Great Britain, colonized by the Spaniards were in the year 1765 taken possession of by the British Government but subsequently abandoned, from which time they ceased to be inhabited ..."
Exhibit 9, p 1

The above proves that there is relevant competent and material evidence that the British did take possession and obtained sovereignty over Las Malvinas and that they subsequently abandoned them and later re-took them from Argentina. This evidence is incontrovertible proof and is further strengthened by the fact

that the evidence is the written documentation of the British government itself. Under the Anglo-American rules of evidence or proof, no amount of 20th century writing or verbal statements of the British government can change this written evidence which the Argentine government now has in its possession. No British government official can now say that these documents do not mean what they said when they were written the fact. I will not be surprised if the British are shocked by the possession of these archives by the Argentine government.

I strongly recommend that how the legal issue of sovereignty of Las Malvinas is used very carefully considered. Because the British have such direct and indirect influence in the International Court of Justice (The World Court) that it is possible for a result similar to that in the Beagle Channel Case to happen if this matter should go to the World Court. Normally, a claimant has the burden of proof to establish his claim (WIGMORE, Evidence, 3rd. Edition 1940). Here we have the case of Great Britain abandoning the islands in 1771, retaking them in 1832 from Argentina and retaking them again from Argentina in 1982 when Argentina reclaim them as her territory. Even though the British were in possession for 150 years, they still have the burden of proof to justify their claim to sovereignty by reason of their illegal seizure in 1832. Thus, while they may claim possession they cannot thereby prove sovereignty. In other words, they can only prove that they took the islands and thereby possess them -but possession alone does not give sovereign rights unless the party from whom the territory has been taken concedes the right of sovereignty, which Argentina has not. Britain cannot have it both ways. Great Britain can only assert sovereignty by possession. Britain has avoided any discussion of sovereignty, it only talks of "possession". That is why it is critically important that Argentina does not agree to possession even though sovereignty may be discussed later.

My immediate suggestion is that since a forum such as the World Court would be dangerous to Argentine interests, perhaps consideration should be given to have the Organization of American States be the forum for Great Britain to try to prove sovereignty, or even the Security Council of the United Nations. It would also seem to me that it is very difficult to even have an arbitration before disinterested arbitrators -even the Vatican have to be ruled out (see the last paragraph of my article on the Beagle Channel Arbitration).

The burden of proof as to the loss of possession by Argentina in 1832 is very clear from the documents from the British archives. Argentina can prove that the islands were taken from her in 1832. It can very easily establish that the islands were taken from her again in 1982. This is Argentina's burden of proof -the loss of possession. But the critical question is the proof of sovereignty. Great Britain cannot establish its clear right to sovereignty -in fact, it refuses to do so. Therefore, under Anglo-American concepts Great Britain fails in its burden of proof (WIGMORE, Evidence, 3rd. Edition, 1940). The reason why it will not discuss sovereignty at this time is that Great Britain knows that it cannot persuade reasonable minds that it has sovereignty. Britain is the claimant to the islands. When and if Britain attempts to prove its case, Argentina can demand that all of Britain's archives be made available for public inspection, Argentina now knows the extent and identification of all these documents. Why are some of these files not available for 50 years or 75 years or even 100 years? What is Great Britain hiding? Why did the British Foreign Ministry suddenly remove a number of documents from its archives? As The Times of London put it on Monday, April 12 1982:

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If they would prove the British legal right of sovereignty why are they hidden -why are they not published? The legal conclusion is that at least they do not help the British case. Therefore, the next step should be that somehow, someone (not Argentina necessarily) should force Great Britain to state the legal basis for its claim on sovereignty.

We have also acquired considerable documentation concerning the Falkland Islands Company from its inception. However, it is extremely difficult to tell from it who the ultimate owners or beneficiaries of the shares of stock are. This information may only be available from the British banks involved and they are not inclined to reveal their banking customers interest except on order from a British Court. Unfortunately, these documents are not official British government publications but are commercial ones. The fact that they were included in the Colonial Office files can probably be explained on the basis that it was a new organization -namely, the Falkland Islands Company on a new British Colony and needed Colonial Office approval (Exhibit 10).

I can only conclude this paper by stating that the British claim to Las Malvinas could be one of the most interesting legal questions today. Argentina has everything to gain by not giving possession of the islands to Great Britain and everything to lose if it does. Venezuela negotiated with Great Britain for over 120 years concerning its rights to territory in British Guyana and nothing happened. There Venezuela had the burden of proof with the British in possession of their case, the situation is reversed with Argentina in possession and the British having the burden of proof. Argentina has the advantage of knowing ahead of time, while Great Britain might rely upon and therefore based on the above can anticipate what legal position it wishes to take. In the political position of Argentina can be supported by the legal basis provided by the documentation obtained by me from London.

Whether the documents from the British archives are used in an affirmative manner (where the Argentine government either issues a "White Paper" or a statement before an international tribunal) or in a reply to a British statement on the question of sovereignty, the documents have the same effect. In other words under the rules of evidence in use in British courts, as described at length in Sir William S. Hildworth's History of English Law (bk. IV, pt. II, c. VII, Vol. IX, page 127 etc.) the person presenting the written document has only the obligation to prove the source of the document and having submitted it to the forum, shifts the burden of proof to his or hers side. In the present circumstances Argentina can offer a document as proof that the British abandoned Las Malvinas on 1771. The proof consists of the identifying the document and indicating the source is the Public Record Office, in London, and the identifying statements and warns of that office, which are on the copies in the hands of the Argentine government. If the British attempt to discredit them -they will have to say that their own archives are not true. There is no way, legally, for the British government to deny the validity and authenticity of these documents. Since the British cannot deny their validity, them the statements continued therein are deemed by the court to be true. In England this has been settled law for many years. See Rex v. Aickles, 1 Leach Cr. L. (Eng.) 436 (1785) and in the United States, See : Gaines v. Relf 12 How (U.S.) 472, at page 570 (1851).

The conclusion is simply that the British government maintains its own archives of its official papers and under the above decision in Rex v. Aickles the statements contained therein are true. Therefore, the document (Exhibit 2) which states the British abandoned the islands in 1771 is true. It is also the same for all the other documents I have obtained from the British archives. That is why -since the British rule of law is that the statements in these documents must be considered as true that they are so important in proving Argentine's sovereignty.

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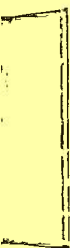
As to those documents which the British government either has removed from the Public Record Office or has sealed for 50, 75 or even 100 years. The inference to be drawn from a legal point of view is that they are being suppressed because they will not help the British legal position. The courts, both British and American, expect that everyone will try his best to prove his case when in court and if anyone does not support his position, he will be deemed to either have no evidence or weak evidence. The force of the inference will however depend on whether the evidence is in his power to produce. See: Armory v. Delamirie 1 Strange (Eng) 505 (1722); Mammoth Oil Co. v. U.S., 275 U.S. 13 (1927).

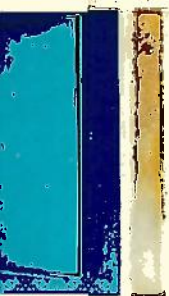
As the American authority on the laws of evidence Wigmore said:

"... the art of presenting the evidence lucidly and effectively at the trial, and of using the rules promptly, tactfully, and accurately amidst the surprises and emergencies of a trial, requires something more than a correct knowledge of each single rule. It involves the art of using them - just as the mere knowledge of all the rules of a bridge game leaves one a long way from the skilful and successful use of the rules in a match"

Wigmore on Evidence
4 (2) p.13
Chicago, Foundation
Press (1940)

32





93

1	2	3	4	5	6

Reference: - Co 78/1

XC O 26913

Stop

RN

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miscell

Incl: 2 in
Mr Balthouse

8

St James'

February 11. 1774.

My Lord,

I think it proper to acquaint your Excellency that Lord North in a speech some days ago in the House of Commons on the subject of the Naval Establishment for this year, mentioned the intention of reducing the Naval Forces in the East Indies as a material object of diminishing the number of Seamen, and at the same time hinted as a matter of small consequence, that in order to avoid the expense of keeping any seamen or marines at Falkland's Island, they would be brought away, after leaving there the proper marks or signals of possession, and of it's belonging

To Excellency

The Lord Grantham

B

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Reference:- CO 78/1

YC C26913

Stop

to the Crown of Great Britain. - As this measure was publicly declared in Parliament, it will naturally be reported to the Court of Spain; and though there is no necessity of Your Excellency's communicating this notice officially to the Spanish Ministers, since it is only a private regulation with regard to our own convenience, yet as I am inclined to think from what passed formerly upon this subject, that they will rather be pleased at this event, Your Excellency may, if they mention it to you, freely avow it, without entering into any other reasonings thereon. - It must strike Your Excellency that this is likely to discourage them from suspecting designs, which they must now plainly see never entered into our minds. - I hope they will not suspect or suffer themselves to be made believe that this was done at the Request, or to gratify the most distant

95

1	2	3	4	5	6

Reference:-

Co 78/1

XC C26913

STOP

RN

9

distant wish, of the French Court; for the truth
is that it is neither more or less than a
small part of an economical naval regulation.

I am &c

(Signed) Rockford.

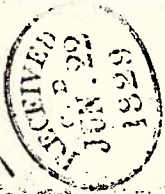
Reference:-

YC: 026913

St. J.

2A

2956



L. J.

Lord Rockford to Lord Grantham

February 11. 1774.

N^o 2. —

31 June

1100

98



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Reference:- Co 78/1

XC 026913

Stop

RM

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Miscell.

Incl: 1 or
St. Barnabas

Extract of a Letter from Lieutenant Clayton of H. M. S. Penguin, dated Port Egmont May 20th, 1774.

"Be pleased to inform the Right Honourable The Lords Commissioners of the Admiralty that I received their Lordships' orders of the 22^d December, 1773, from Lieutenant James Gordon, Commander of His Majesty's Bark Endeavour, the 23^d April 1774, and immediately proceeded to execute them; on the 20th May following I embarked on board her with all the officers and Company of His Majesty's Shallop Penguin under my command, having previously thereto caused the Shallop to be taken

to

1	2	3	4	5	6

Reference:- Co 78/1

XC 26913

Step

RM

to pieces and put on board her with all the Provisions, arms, stores, and Utensils, that the said Bark could stow, but I was forced to leave behind in the Storehouses several old and unserviceable stores, Naval and Victualling: as Lieut. Gordon by letter informed me he could receive no more on board, the ship under his command being full, previous to my embarking I caused a plate of lead with an inscription engraved on it (asserting His Majesty's Right to Falklands Island, the Fort, Storehouses, Wharfs, Bays, Harbours & creeks) to be set up
on

100

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1	2	3	4	5	6

Reference: - Co 78/1

YC 026913

S. 104

RM

6

on the Door of the Fort; a Copy of which I have the honour to inclose; I also left flying His Majesty's Colours on the Fort, and on the highest Hill on the North Entrance of the Harbour of Port Egmont: upon the Settlement I left standing His Majesty's Fort, two Stone built Storehouses, three Stone built Dwelling-houses, three Cod-built Dwelling-houses, two Piers of Stones for boats to land at, one substantial stone wharf, and convenient Basin, and a Crane for landing, and loading heavy articles, also several different inclosures in various spots as gardens, and where great plenty of Vegetables had been raised. -

199

Copy

Be it known to all Nations that
Falklands Island, with this Fort,
the Storehouses, Wharfs, Harbours,
Bay, and creeks thereto belonging,
are the sole right and property of
His most Sacred Majesty George
the Third, King of Great Britain,
France, and Ireland, Defender of
the Faith. In witness whereof this
Plate is set up and His Britannick
Majesty's Colours left flying as a
mark of Possession by
J. W. Clayton.

Commanding Officer at Falklands
Island. A. D. 1774.

Extract of a letter
from J. W. Clayton

102

Copy

Extract of a Letter
from Lieut. Clayton
of H. M. S. Penguin, to
the Admiralty, dated,
Port Lympne, May 20th,
1774.

Graduation of
the Fall River School,

Reference:- 73/1

XC. 26913

21

24

104

1	2	3	4	5	6

Reference: - Co 78/1

XC C 26913

10

29th March 1829

Foreign Office June 22nd 1829.

Sir,

I am directed by the Earl of Aberdeen to transmit to you, for the information and consideration of Secretary Sir George Murray, the copy of a Dispatch which has been received from His Majesty's Charge d'Affaires at Buenos Ayres, relative to the claims of the Government of that Country to the sovereignty over the Falkland Islands.

I have the honour to be

Sir
Your Most Obedient
Mouth-Servant.

J. Douglas.

Honble Secy's Office

p 2 2

March 15th

Lord Rockingham's 1500 Grantham

105

1	2	3	4	5	6

Reference: - Co 78/1

XC 026913

SM

RM

29th March.

11



Buenos Ayres

March 15. 1829.

G/M

My Lord,

As a sentence lately passed upon some convicts, and signed by the acting Government of Buenos Ayres it was expressed that they were to be banished to Martin Garcia "until the establishment at the Falkland Isles should be ready for their reception".

This, and the circumstance of this Government having taken upon itself at various times to grant to

High Castle

The Earl of Aberdeen.

in in in

individuals

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Reference:- Co 72/1

XC C26913

JHP

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individuals, privileges to form temporary
 settlements in those Islands for the purposes
 of sealing and taking the Wild cattle
 which are to be found there, induces
 me to bring the pretensions of this
 Government to the sovereignty of
 those Islands, under your Lordship's
 notice, not being aware that His
 Majesty has ever formally relinquished
 his ancient claims to them, and
 considering that now that the Commerce
 of the Pacific is open to the World,
 they may perhaps be thought of
 much greater value than formerly.
 When

1	2	3	4	5	6

Reference:- CO 783/1

YC 026713

RM

12

when His Majesty discussed his rights
with the Court of Spain.

A recent publication by Mr. Wedder,
a Master in the Navy, who passed
two winters in those Islands gives
much information respecting them.
He has lately been here, and I learn
from him that he found them to be
by no means so inhospitable and
uninhabitable a Region, as they have
hitherto been generally supposed.

(It was the practice of the
Spaniards previously to the South
American Revolution constantly to
maintain

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Reference:- Co 78/1

XC 026913

S. 127

RM

Maintain a guard in one of the
 Islands over convicts who were
 sent there for punishment, and
 also a small Vessel of War, which,
 as well as the guard, was annually
 relieved from Buenos Ayres.

From the year 1813 this practice
 was discontinued, but the Buenos
 Ayreans have not the less, ever
 since, considered the Territory as
 belonging to them, and as far as
 I can learn, they have now some
 idea of re-occupying it in the
 future.

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Reference:- CO 78/1

YC 26913

21

13

same manner, and for the same
purpose as the Spaniards did.

Have the honour to be
in 2 2

Signed/ Woodbine Parish

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Reference:- CO 78/1

XC 026913

Sht

RM

3105 Miscell.

14

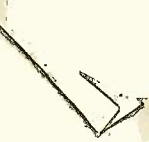


Foreign Office June 29. 1829.

Sir,
 With reference to my letter of the
 20th instant enclosing a despatch from
 His Majesty's Charge d'Affaires at
 Buenos Ayres on the subject of the
 claim of the Government of Buenos
 Ayres to the Sovereignty of the Falkland
 Isles, I am directed by the Earl of
 Aberdeen to transmit to you for the
 consideration of Secretary Sir George Murray
 the copy of a further despatch
 from Mr. Pakenham upon that

R. W. Hay Esq.
 Subject

111



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Reference:- Co 78/1

XC 026913

Stop
RM

Subject.

I am

In

your most obedient

humble servant


W. Hughes.

EXH. 4

1	2	3	4	5	6

Reference: - CO 78/1

YC 26913

Stop

RM

2155 Minelli

Recd. 1

Lord Dundee

Dundee 16
Dundee 25th April 1829

My Lord,

With reference to my Despatch
No 17 of the 15th Minutes upon the
subject of the Falkland Islands, I
now inclose, for your Lordship's
Information, copies of the grants
which have been made by the Gov^{rs}
of Buenos Ayres of the Id. of
Atahualpa, as well as of Atahualpa,
whereby your Lordship will observe
the terms upon which a Mr. Charles
Fennel has undertaken to form a
settlement in those Places.

Wm. B. Wadley

The Earl of Aberdeen

cc cc cc

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RN

I have procured these Papers
from Mr. Vernet himself, a very intelligent
Person, who has passed three Winters there,
and is now returning with several
Colonists, to be located according
to his Agreement with the Government.

I understand from him that
he will have sent to Lokolael, and
Haten Land, in this year and the
last, about one hundred Persons
altogether, of different Nations, as
the accompanying list (No 3) sh^{ws}
fath:- Mr. Vernet states the Climate
of Lokolael to be by no means bad,
and that although as yet he has not

How

1	2	3	4	5	6

Reference:-

Co 78/1

XC C26913

J 104

RN

17

own grain, he has cultivated Potatoes, and other European Vegetables with the greatest success, and doubts not that the settlers will be able very soon to provide entirely for their own sustenance: - That Island abounds also with good peat for fuel, and timber adapted to every purpose may be procured from Staten Land: of the fishing on the adjacent coast Mr. Perret expects to make a considerable profit.

His chief object however at present is to increase the stock of cattle which he has found in

Abdala

1	2	3	4	5	6

Reference:-

CO 78/1

YC C26913

Salisbury, and which he calculates at
from 15 to 20,000 Head.

He would, I believe, be very
happy if H^r's Geo^{ty} would take
his settlement under their protection.

He sails for the Falklands with his
family in about a month, and
intends to pass, he says, some
years there, in promoting the objects
of this colony.

I have the honour
to be

Signed Woodbine Parish.

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1	2	3	4	5	6	Reference: - Co 78/1			
						XC C 26913			

521

211

3125. Marshall:

Recd. 8
London 18



Memorandum received from Mr. Vernet
as to the present state of his colony in the
Falkland Islands, dated Buenos Ayres,
30th April, 1929. —

There exist now in Falkland Island, to
16 White Inhabitants, natives of Buenos Ayres.
10 "Serving men, mostly English & Americans
2 — 2 Brother & Brother in law of Mr. Vernet's
18 "Negroes indentured for 10 years. —
12 "Negro Girls.

52. in all.

There are, prepared to embark for
the Falklands, eight families including Mr.
Vernet, and seven single men — Germans
33. Individuals, in all. —

There are, going to Staten Land 4 families in
and 6 single men — English — in all.
18. Individuals —
103. Persons in all.

EXH. 5



1	2	3	4	5	6

Reference:-

Co 78/1

XC 026913

2607 Miscell
 Private
 Confid
 Foreign Office
 JUN 6 1829
 June 5. 1829.
 My dear Sir,
 I believe that you
 have already seen all
 the information which this
 office affords on the subject
 of the Falkland Islands.
 Nevertheless I send to you
 copies of the Report of the
 Officer whom our people
 were
 W. Hay Day
 on it

1	2	3	4	5	6

Reference:-

Co 78/1

XC 26913

STP

withdrawn from them of them. - On the other
 74, - of a Despatch of hand, you are doubtless aware
 Rockford, then Secretary that (the Spanish Ambassador
 te, describing the motives at the same time that he
 to proceeding. communicated the orders of
 his Court in 1771 that possession
 of the islands (which had been
 forcibly wrested from us by
 a Spanish Squadron in the
 preceding year), should be
 restored to Great Britain, -
 declared that such restoration
 "could not be thought not
 to

Extract from despatch 2623
 Res. Admiral Olney 1789
 re, cattle, etc. in Falkland
 is, with remarks as to
 the islands.

1	2	3	4	5	6

Reference:-

CO 78/1

XC C26913

Stop

RM

to affect the question of the
prior right of Sovereignty.

Thus the matter appears
to have been left: Spain did
not withdraw her pretensions
to the right: but Great Britain
being then in possession, declared
on withdrawing her troops from
the Islands in 1774, - that the
were "the sole right & property
of Great Britain". - Whatever
right we possessed then, we
appear to have still.

Yours very faithfully

Blackhouse

Two Enclaves

R14

760 111000

Lent:1

Copy

No 34



Memo: Repts

111

November 26. 1830.

ned: the
part were
of both
Captain
to Rio
d.

My Lord,

I enclose a copy of an
Article lately published in one of
the Papers of this City upon the
arrival of a Ship from Mr. Verret's
settlement in the Falkland Islands.
The Captain Brisbane who is
stated to give the account in
question, is the person who
was formerly with Mr. Weddell in
his voyage to South Georgia.
He has since associated himself
with Mr. Verret in his speculations
in the Falklands.

Upon seeing the notice signed
by Verret, I thought it right to
send for this person, and to acquaint
him with the facts I had been
instructed.

The Earl of Aberdeen.
do do do

instructed to enter here against
 the Decree of the Buenos Ayres
 Gov^t of June 1829 and I advised
 him as he was about to return
 immediately to the Falklands
 to communicate the tenor of it
 to Mr. Vernet as a warning
 against his interfering with any
 of H.M.'s subjects frequenting those
 Coasts. Mr. Brisbane promised
 me he would take care that
 my caution should be attended
 to; - that the truth was, the Viceroy
 was more intended to draw
 Vessels to Soledad for supplies,
 than to hinder their coming
 there, which in fact they had
 no means whatever at their
 disposal to prevent.

I thought it better to take
 this

125

R14

112

this course, than to make, my
 further official Representation to the
 Gov^t upon this subject, being
 satisfied that neither Mr. Vernet
 or his agent require orders from
 the Authorities at Buenos Ayres
 to attend to my advice, much
 caution.

Dec 13/29 Since my Protest in December
 last, the Minister has taken no
 further notice of this subject,
 and I have considered that it is
 not my business to say more about
 it, after having once distinctly
 asserted Mr's rights, without
 your Lordship's further instructions.

Understand that Mr. Vernet's
 expectations continue to be
 realized, and that he has found
 both the climate and soil as

Yours

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 Captain
 to Rio
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Reference:- Co 78/1

Xc 026913

R/11

good as he could desire. He has hitherto confined himself entirely to Soledad, the Old Spanish Settlement, where the remains of the Buildings originally erected by M^r de Bonnaville in the Year 1764 still exist.

Having lately obtained access to the Old Archives of the Government of N. C. M. in these Parts, I have discovered some curious Original Papers which may be worth your Lt. Whip's notice with reference to this question. —

I enclose copies of them.

The first is the Receipt signed by M^r de Bonnaville in the Year 1766. for the sum of 618. 108. French Livres; paid to him by order of

1	2	3	4	5	6
1	2	3	4	5	6

Reference:- Co 78/1

YC 26913

R11

113

of the Court of Spain in
 Reimbursement of the Expenses
 incurred in forming the
 Settlement of Solahab, and upon
 the Repayment of which it appears
 that the French Gov^t had
 ordered him to give over the
 Settlement in question to the
 Spanish Authorities.

The Second Paper is dated
 in April 1774. And is an
 Instruction from the Spanish
 Gov^t to their Commandant at
 the Falklands (a Copy of which
 was forwarded at the time to Buenos
 Ayres) referring to an offer stated
 to have been made by the Court of
 London to abandon their Settlement
 on the Great Falkland, and desiring
 the said Officer to report whether
 the

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 of both.
 Captain
 re to Rio
 d.

but the said abandonment did, in
 to consequence take place, And to watch
 that the English did not return,
 of or form settlements on any other
 part of those Coasts.

From the same Records I find
 that towards the end of 1775 a
 Spanish Officer named Callegas, in
 pursuance of these Orders visited
 the remains of our settlement at
 the Port Egmont, and discovered there
 the Inscription left by Captain
 Clayton upon his quitting the place
 the year before. This Inscription
 fully set forth His Rights. - It was
 on a Lead Plate, and was sent by
 Callegas to Buenos Ayres, where I am
 told it was carefully preserved
 until General Beresford took possession
 of the City, and sent it to England.

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Reference:- Co 78/1

XC 26913

P 114 - 120

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114

I have succeeded in obtaining
the enclosed copy of it in the
Spanish language.

Yours truly
as ever

Signed / Wodden Parish

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XC. 26913

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Reference:-

CO 78/1

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List. 2

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From the British Packet and
Argentine News published in Buenos
Ayres.

Falkland Islands.

The arrival of Capt. Brisbane
from the above Islands has put us
in possession of news from the Emigrant
settlement established at East Falkland
Island, Port Luis, Berkeley Sound, under
the Direction of Mr. Luis Buret.

We rejoice to hear that it is in
a prosperous condition; about twenty
thousand head of horned cattle are on
the Island; poultry and pigs are in
abundance, and all sort of wild fruit,
rabbits, &c; potatoes, cabbage and other
vegetables thrive extremely well; wild
horses abound, but the breed is small,
horses however have been imported from
Patagonia; wood is scarce, but this

h. ant.

1	2	3	4	5	6

Reference: CO 78/1

XC 26913

P 119 -

m.c.l.

2/11

the want, as it regards firing, is amply compensated by the great quantity of peat found on the Island.

The winter (although in latitude 51.40.) is stated to be rather mild than otherwise, and during the last winter there was very little ice or snow. The weather during the summer months is changeable, and westerly winds then prevail; a north wind brings with it fog and damp weather. The autumn months of March and April is the most agreeable season. Fish is plentiful on the coasts, particularly a species of mullet.

Port Luis is a safe harbour, and has from 7 to 3 fathom water with excellent anchorage; there is

also

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Reference:- CO 78/1

XC 026913

116

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Captain
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also a basin for small vessels not drawing more than 14 feet of water, in which they can be repaired.

The Emigrants at present on the Island amount to about 70 persons. Capⁿ Brisbane is about to return hither in the British Schooner Brig "Elbe", which vessel will be loaded there with hides, jerked beef, and salted fish from Bahia.

A Circular has been published by the Governor (Mr. Ker) with the decree of the Govt. of Buenos Ayres of the 10th of June, 1829.

The following is a copy of
the Circular.

Port Luis (Falkland Islands)
To Captain

Y.
in

1	2	3	4	5	6

Reference:- CO 78/1

XC 026913

P 1.

Sir:

The Undersigned Governor of the Falkland Islands, Terra del Fuego, and adjacencies, doth hereby, in compliance with his duty, as expressed in a decree passed by the Govt. of Buenos Ayres on the 10th June, 1829, to watch over the execution of the laws respecting the fisheries, of which decree the annexed is a translation, inform you: that the transgression of those laws will not, as heretofore, remain unnoticed.

The Undersigned flatters himself that this timely notice which he gives to all Masters of vessels &

engaged

p 119 - 120

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117

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of both
Captain
to Rio
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engaged in the Fisheries on any part
of the Coasts under his jurisdiction,
will induce them to desert, since
a repetition will expose them to
become a lawful prize to any
vessel of war belonging to the
Republic, or to any vessel which
the Undersigned may think proper
to arm in use of his authority for
executing the laws of the Republic.

The Undersigned further warns
persons against the practice of
shooting cattle on the East Falkland
Island, the same being private
property, and however innocent the

act

1	2	3	4	5	6

Reference: (C) 78/1

YC 026913

P 119 - 12

inches

2/11

act may be in those who are not aware of this circumstance, it becomes of course highly criminal in those who wilfully persist in such acts, and renders them liable to the rigour of the laws in similar cases.

On the other hand those who are in want of provision or refreshments, can receive them on moderate terms, by applying at the new Colony at the head of Berkeley Sound, where no port charges are to be paid, desertion of men discouraged, and any assistance rendered to those that may stand in need of it,

by

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Reference:- (C) 78/1

XC 026913

P 119 - 120

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Captain
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by the undersigned
(signed) Luis Peret

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1	2	3	4	5	6

Reference:-

Co 78/1

XC 026913

R/H
→

Translation

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Luis de

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Captain
re to Rio
id.

Instrument delivered by M. Luis de Bougainville
upon going up the Islands of Malvinas.

Louis de Bougainville, Colonel of the
Army of N. H. & M. has received 618,108 livres,
3 Sous, and 11 Deniers, being the amount for
account delivered by him of the expenses
incurred by the Company of St. Malo in
expeditions sent out to found establishments
in the Malvine Islands of N. H. & M. as follows:
vizt: 40,000 livres paid in Paris by H. E.
the Count de Flauter, Ambassador of N. H. & M.
at that Court, for which the corresponding
receipt has been given; - 200,000 livres
which are to be given to me at the same
Court of Paris, according to the Bills drawn
in my favour by the Marquis of Zombars,
High Treasurer of N. H. & M. upon Don
Francisco Ventura Llovera, his Treasurer
extraordinary at that place, and 75.621 $\frac{3}{4}$

Luis

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30
---	---	---	---	---	---	---	---	---	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----

hard dollars which will amount, at the rate of
 five lires each dollar to the remaining sum
 of 370,108 Lieres, 3 Sols, and 11 Deniers, which
 I have to receive in Buenos Ayres according
 to the Drafts which have been given to me,
 drawn by H. B. Señor B.º Fr. D. Julian
 de Arriaga, Sec.º of State, and of the
 general Department of the Indies, and
 Marine of H.º J.º R.º.

And in consideration of these
 payments, and conformably to the orders
 of H.º M.º C.º M.º, I engage in all due form to
 deliver over to the Court of Spain those
 establishments, with the Settlers, Houses,
 works, Stores, the Craft built there and
 employed in the Expedition, and lastly
 whatever may have belonged to the
 Company of St. Pablo, as specified in the
 corresponding account, or to his Most
 Christian Majesty in consequence of

his

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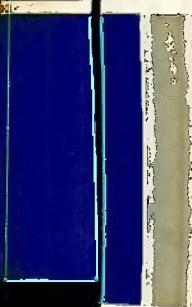
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Captain
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His voluntary aprior of the same, it being understood that neither the Company, nor any other person therein interested shall ever be entitled to make any further claim against the treasury of His Catholic Majesty, or demand more money, or any other compensation.

In faith of which I sign the present receipt, as a principal Party interested, and authorized for the arrangement of the above amounts as appears in the Office of the State department at St. J. de Foron on the 4th of October, 1786.

(Signed)

De Borgairville.



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Reference:-

Co 78/1

XC 26913

R/H

Copy

N^o 17

The Falkland Islands



Buenos Ayres; 177

October 15. 1832.

My Lord,

The Negotiation between the Buenos Ayrean Government, and Mr. Baylies, Charge d'Affaires from the United States, for the settlement of the Questions arising out of the Events of last year at the Falkland Islands, having failed to produce any satisfactory result. Mr. Baylies has demanded his Passports, and has left this Country upon his return to North America. -

He communicated to me without reserve the course and conclusion of his

to Viscount Palmerston &c. negotiation

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Reference:- CO 78/1

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negotiation. Many notes passed between him and the Government, and several verbal conferences were held; the sum of which is as follows: Mr. Baylies began the negotiation, according to his Instructions, by demanding indemnity for the American fishing Vessels detained by Don Lewis Vernet, nominal Governor of the Falkland Islands; and security from future molestation to the American fishing navigation in that part of the Ocean, by the Officers or Agents of Buenos Ayres; Mr. Baylies denying, in toto, the claims of the Argentine Republic to the Sovereignty, either of the Falkland Islands, or of any of the other Islands

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or stations, situated on the Eastern Coast of this Continent, to the South of the 41st Degree of South Latitude.

After much delay and evasion, the Buenos Ayrean Minister at length declared to Mr. Baylies, that his Govt. declined entering upon any other branch of the negotiation, until satisfaction had been first offered by the United States, for the attack upon the Buenos Ayrean Settlement at the Falkland Islands, by Captain Duncan of the American Corvette of War Lexington. -

Mr. Baylies replied, that being prepared, so far from offering satisfaction, to avow and justify these proceedings, on the part of his Government, he considered
the

the Buenos Ayrean Minister's declaration as closing the door against further negotiation, and consequently felt his presence in this country to be no longer useful or proper. During the whole course of this discussion, which was lengthened out for four months, and to which much publicity was given, a very unusual and unnecessary degree of irritation and illhumour was manifested by both the negotiating Parties.

The Buenos Ayrean Government now profess to believe, that the negotiation has failed in consequence of Mr. Bayleis having left the United States with insufficient

R/H

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insufficient Instructions, framed before the proceedings of Captⁿ. Duncan of the Lexington had been made known there: and they hope that the communications, which they have, in the mean time, addressed directly to the Cabinet of Washington, will lead to a more favourable result. — I am inclined, on the contrary, to expect, from what I learnt through Mr Baylies, that the United States Government will not depart from the demands which he was instructed to insist upon, and that forcible means will be used, if necessary, to exact a compliance with them. — The course and failure
of

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Reference:- Co 78/1

YC 26913

of the negotiation will, I understand,
be laid, in due form, before Congress,
at its meeting in December next. -

Soon after Mr. Baylies had arrived
at Buenos Ayres, I communicated
to him, officially, in the Note, which ^{re!}
I have the honor to enclose, a copy
of the Protest, presented by order of
His Majesty's Government, to the
Buenos Ayrean Government, in November
1829, against the assumption of any
right, on the part of the Argentine
Republic, to the sovereignty of the
Falkland Islands. I found that the
American Charge d'Affaires and his
Government, were already fully aware
of, and prepared to acknowledge the
Sovereignty

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Sovereign Rights of His Majesty; and Mr Baylies, being a man very learned in the territorial history of all the Western Hemisphere (and having been, I believe, for that reason, employed, some years since, to conduct the discussion with H. Mr. Mission at Washington, upon the question of the Columbia River Settlement) entered at great length, in one of his notes to the Buenos Ayrean Government, into the historical argument of the case, clearly deducing, from prior discovery, and first possession, the title of the Crown of Great Britain to the sovereignty of the Islands in question.

But it is my duty to add, and to this I venture to solicit the particular attention

attention of your Lordship, that the North Americans appear to claim further, for themselves, an original right to freedom of Fishery over all the waters adjacent to the Falkland Islands; and moreover, to ground this claim (as theirs, as it were, with Great Britain in America) upon the very fact of the Right of Sovereignty over those Islands being vested in the British Crown.

As this singular view of the subject was not advanced in any particular communication to myself, I did not feel called upon to make any observation thereupon; but I found that the principle was implied throughout all
the

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the arguments of Mr. Baylies; and in a long Memorandum, for the guidance of his negotiation (parts of which he read to me) prepared by him before coming to this Country, with the approval, apparently, of his Government, I noticed the celebrated Eulogy of Mr. Burke upon the Maritime Industry of the New Englanders, in which the Falkland Islands are mentioned as one of their stations, quoted in support of the claims of the Americans of the present day, to the free enjoyment of the fisheries along the same coasts.

I presume that H. M. Government will by no means, concur to this extent

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Reference:- Co 78/1

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in the claims of the subjects of North America; but that, on the contrary, in the event of the Falkland Islands, becoming at some future day, a peopled and organized British Settlement, the necessity must be kept in view of securing some protection to their Inhabitants, and of imposing consequently, just restrictions upon the right of fishery along their Coasts. -

At the same time a prospective declaration of the intention to impose such restrictions might, as long as the Islands remain unoccupied by British 'proposers', have an ungracious appearance towards the people of North America; and as a necessity for such declaration might

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might not improbably arise, if, in the ¹⁸² present state of the dispute between the North Americans and the Buenos Ayreans the claim of sovereignty over the Islands were at once surrendered by the latter to Great Britain. - I have judged that your Lordship would approve of my continuing for the present to withhold the execution of the Instructions conveyed to me in your Lordship's Dispatch N^o 2 of the 22^d of March. -

The events which have opened the above view of the subject, will have become known to your Lordship soon - subsequently to the date of Yr. Lordship's despatch. -

I have acted under the impression
that

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that a contested claim of Sovereignty over the Falkland Islands, between Great Britain and Buenos Ayres, can never be of great Importance, as it may at any moment, when necessary, be easily settled; but that a questionable Right of Fishery, over a considerable tract of Ocean, might, between Great Britain and North America, lead to a dispute of a very serious nature: — and I apprehended that an immediate Enforcement, under the present circumstances, of H. M. Rights of Sovereignty, might at once, and unavoidably open the field for the premature discussion of a matter, which may perhaps merit the grave consideration of H. M. Govt. — If

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Reference:- Co 78/1

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Your Lordships' Superior Judgement shall decide, on the contrary, that the Instructions contained in Your Lordships' dispatch, above referred to, ought to be immediately acted upon. I am happy in believing that no serious detriment will have been caused by the delay. -

With this motive, and lest, in the mean time, the silence of H. M. Mission, pending the negotiation with the North Americans, might by possibility be considered as implying a relinquishment of H. M. just Rights, I have thought it best to reiterate to the Buenos Ayrean Government the terms of the protest formerly presented. -

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Reference:- Co 78/1

YC 026913

A fit opportunity for so doing was afforded by a Decree, lately published, appointing, in the absence of M^r. Vernet, a new Commandant, *ad interim*, over the Falkland Islands, and the adjacent possessions comprized in M^r. Vernet's command. - I have the honor to enclose copies of the note which I addressed to the Buenos Ayres Minister, and of His Excellency's reply. - The Decree above-mentioned was issued hastily at the moment before the departure of M^r. Baylies, and was in fact, nothing more than a silly show of defiance to the Americans. - The new Governor *ad interim*, was dispatched to

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his post, with a number of male and female Convicts, taken out of the prisons, who are to make the pretended appearance of a Colony. There is little doubt, however, that they will shortly escape back to the Continent. Your Lordship will perceive that the Buenos Ayrean Minister, in his reply to my note, states that his Government is prepared, when it shall be required, to make known the Rights of the Republic to the Sovereignty of the Falkland Islands.

But I am wholly unaware what arguments could be adduced, if the case were prep'd, to meet the clear and positive title of the British Crown.

I have &c.

signed ' H. J. Fox.

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Reference:- C 78/1

YC 026913

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2927 Falkland Islands Cont. 197

H. M. S. Ship "Tyne"
off Cape Horn

January 20: 1833.

My Lord,

I venture to inclose to your Lordship a Memorandum, containing some details relating to the Falkland Islands. Having had an opportunity of visiting those Islands in His Majesty's Ship "Tyne", and as the object of that Vessel in calling at the Falkland Islands, formed part of an arrangement consequent on the request of your Lordship to the Admiralty that one of His Majesty's Ships should be sent to the Falkland Islands, for the purpose of reasserting possession of them, in the name of His Britannick Majesty, I have presumed to hope, that the little information which my short stay at these Islands enabled me to collect, may, under

To His Viscount Palmerston G.C.B.

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Reference:- CO 78/1

XC 26913

present circumstances, prove not altogether uninteresting. -

At all events, as so few local details of the state of these Islands are known, I trust that I shall be excused for venturing to write to your Lordship on a subject not connected with my official duties, should my having done so, be considered irregular. -

I have the honour to remain

(signed)

Belford Hinton Wilson.

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Copy-
closure
No. 1.

Copy
from Mr. Belford Wilson

H. His Ship "Tyne" off
Cape Horn Jan^y 26. 1833

Separate
1 Inclosure

2927 *Falkland Islands* *Part 2* 199
H. M. Ship "Tyne"
at Sea
January 24: 1833.

On the 10th of January H. M. Ship
 "Tyne" anchored in the Port of Egmout,
 West Falkland, and immediately saluted
 with one and twenty Guns, the British
 Flag, which was displayed in a conspicuous
 situation on Saunders Island. Shortly
 afterwards accompanied Captain Hope
 on shore. - We landed at a small Pier
 built of loose stones, situated in a little
 Cove, near to which there is a stream of
 fresh water. -

On a hill distant about a
 hundred paces from this Cove, it is
 supposed that the British settlement
 was formed in 1766, as several old
 foundations of brick are found buried
 amongst the long grass. One of these
 foundations, which from its being on
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Reference:- Co 78/1

YC 26913

the most elevated spot, Captain Onslow of H. M. S. "Alis" deemed to have been the Blackhouse of Fort George. - He accordingly erected on it four low walls, and at the time of his departure left displayed from their South Western Angle, the British Ensign. - A Tablet was attached to the Flag Staff bearing an inscription to the effect "That the British Flag had been hoisted on that Island on the 23^d of December 1832 by Captain Onslow of H. M. S. Ship "Alis" in testimony of the Falkland Islands being Dependencies of the British Dominions." -

Captain Hope caused to be fixed another Tablet with the following inscription "H. B. M. S. Ship "Tyne" anchored in the Harbour of Port Egmont, West Falkland on the 10th of January 1833, and saluted with twenty one guns the "British Flag". -

About a mile further on the Coast, to the South of the Flag Staff, there is

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another small stream of good fresh water, and like the former, conveniently situated for supplying Vessels:— close to this stream, on a marshy soil, are discernable various demarcations in slate stone of patches of ground where houses are supposed to have been formerly built;—but we had no means of ascertaining whether these houses, if they ever existed, formed part of the English settlement in 1766, or were merely temporary buildings erected by American Sealers, who not unfrequently are left on one or other of the Falkland Islands during the Winter Months, for the purpose of sealing, whilst their Vessels continue cruising in search of more Seals, or return home to refit. — From there being no other vestiges of the former existence of buildings than the demarcations beforementioned, I conceive that, if there

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Reference:- Co 78/1

XC 026913

ever were any, it must have been many years ago, and therefore probably at the period of the English settlement. - These were the only signs of habitation we saw on this Island, and according to the testimony of some American Sealers, whose Vessel happened to be at Port Eymouth, at the period of the "Tyne's" arrival, no others exist in the West Falkland. -

The "Courier
of Stonington.

Wild

The Anchorage off Saunders Island is safe for Vessels of any size, and is the best in the Harbour, both on account of the holding ground and because this Island protects it from the violence of the prevailing South Westerly Gales; this no doubt was the cause of the English settlement having been formed on it, in preference to the opposite Coast or Mainland of West Falkland, notwithstanding that by reason of its Western aspect, the

settlement

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END

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letters must have been almost
 deprived of the benefit of the sun for
 nearly six months in the year. - Fine
 Mullet are very abundant, as are also Wild
 Geese and Ducks of many descriptions,
 Penguins and Rabbits. - Hogs are said
 to be plentiful in the southern part of
 West Falkland, near to Port Edgar, but
 which Port we did not visit. - It is
 principally for the sake of these and for
 a supply of fresh water that, English
 and American homeward bound Whaling
 and Sealing Vessels touch at this Port. -
 Seals are frequently taken, but in
 consequence of the number of Vessels
 (principally Americans) employed of late
 years in this Trade, and the indiscriminate
 destruction of old, young, male and
 female, they have now become scarce,
 tho' they still are numerous in others
 of the less frequented Islands. - The general
 appearance of the Country in the Falkland

Islands

Islands is mountainous and barren. -
There are no Trees of any kind, but the
Soil appears to be well adapted to the
growth of Firs - A great variety of heath
Shrubs, together with the Peat which is
everywhere to be met with, would serve for
fuel. - This heath, and a long coarse
grass, the tops of which, tho' now only in
the very commencement of the Summer
Season, were quite brown, cover the surface
of the ground. - The soil in general, to
the depth of about half a foot, is of a
black boggy substance of decomposed
vegetable matter, beneath which there is
a strata of reddish clay. - Kelp is found
in the greatest abundance, not only along
the shore, but covering large spaces in the
Harbour, and in the open sea, so that
an ample supply might be procured
for manuring the ground, and also prepared
as an article of export to Europe. - An
unsuccessful

unsuccessful attempt to grow corn was made by a Buenos Ayrean settler in the East Falkland, and no other experiment has since been tried;—but as this settler did not previously avail himself of the Kelp for improving his land, and merely used a hoe instead of ploughing it, and notwithstanding which, his Corn failed, without however graining, I do not consider this experiment to be conclusive, that with fitting care corn could not be produced, or at all events that Bere or Bigg, Rye and other hardy grains might not be successfully cultivated. — Potatoes, Celery, Onions, Carrots, Turnips and all common European vegetables thrive well. — In East Falkland, where alone they have been planted, I myself saw a garden filled with fine healthy-looking Potatoe plants, and I make no doubt

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doubt, that in a little valley of rich soil, which as it were divides the Village of Port Louis, vegetables might be obtained, with proper care in their cultivation, sufficient to supply all the Vessels which touch here, and also the wants of a small Colony. - The summer months at the Falkland Islands, judging from the accounts of the Sealers and Settlers, as well as from my own observation, resemble much an English Spring. - The Winter Months, I was informed, were not so cold as is generally supposed, the Thermometre seldom reaching the freezing point. - A Captain of an American Sealer assured me, they were infinitely milder than the Winters in America, or at Newfoundland. - All the Sealers and Settlers agree that, Snow never remains more than a few hours on the ground, and that the
fresh

fresh water lakes are never frozen over, save occasionally by thin Cat Ice --. In fact, cold did not seem to be a subject of complaint with them: a good deal of rain falls in the course of the Year. - These Islands however, both Summer and Winter, but of course principally in the latter, are subject to very violent gales of Wind from the South West and North West, which more than any other circumstances render the climate disagreeable, but on the whole, it is deemed very healthy by the Settlers. - In the above remarks, I need hardly point out, that to avoid confusion of topics, - I have given the result of my observations both at West and East Falkland, which will account for my speaking oftentimes rather more minutely in matters connected with these Islands than my stay at West Falkland would have

have justified. - I shall now however continue my account of the proceedings of the "Tyne". - Captain Hope not finding as he had been led to expect, any Buenos Ayres, or indeed any settlement at Port Egmout, determined to follow H. M. Ship "Clis" to Port Louis, Berkeley Sound, East Falkland, whither Captain Onslow (in a letter found in a bottle near the Flag Staff at Port Egmout) informed Captain Hope he intended to proceed. - Accordingly, the "Tyne" left Port Egmout on the 12th, and after sailing 90 miles to the Eastward, anchored in Berkeley Sound on the 15th. - We here discovered the Crew of a French Whaler, which three days previous had been driven from her anchorage and left a Wreck on a Sandy Beach situated in a large Bay formed in the Sound, and by them Captain Hope was informed that -

The "Magicien
of Havre.

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that Captain Onslow had sailed on the 14th for Buenos Ayres. Captain Hope was disappointed in not finding any letter from Captain Onslow, detailing his proceedings at Port Louis, and a suspicion was consequently raised that an Irishman to whose care Captain Onslow at his departure had recommended the charge of the British Flag had retained the letter, but no opportunity occurred of ascertaining the truth of this surmise. Mr. William Dickson, the individual here alluded to, told us that Captain Onslow on his arrival at Port Louis, had made known to the Buenos Ayreans settled in that Island, that he had come to take possession of it in the name of His Britannic Majesty, that he had hoisted the British Flag, and removed the Buenos Ayrean, which he delivered to the

Commander

Commander of the Buenos Ayrean Garrison, who together with the Garrison immediately afterwards embarked on board a Buenos Ayrean Schooner; and that Captain Onslow, after taking a list of the individuals who wished to remain on the Island, had sailed for Buenos Ayres, leaving as I before stated, Mr. William Dickson in charge of the British Flag. The 'Tyne', as in Port Egmont, hoisted the National Colours, and saluted the Flag which was displayed at Port Louis, with twenty one Guns. - I trust I may here be permitted to relate a circumstance connected with the Buenos Ayrean Government of these Islands, which, taken in conjunction with the former proceedings of the Governor, may be considered as indicative of the system of Government likely to have followed their permanent dominion

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dominion over them. - On the 30th of
 November of last Year, seven individuals of
 the Buenos Ayrean Garrison, which at this
 time consisted of twenty-five men, besides
 an armed Schooner with eighty-five men
 men on board, which at the time of the
 following transaction was absent on a cruise,
 murdered, under circumstances of peculiar
 atrocity, Major Viel their late Commander,
 and Governor of the Falkland Islands, in
 consequence solely of their having been
 reprimanded and confined by him for stealing
 Rum. - the Murderers then surprized the
 remainder of the Garrison, and by threats
 of instant death, forced them to express
 their approval of the murder of the Governor,
 as he was only a foreigner. They then
 dragged forth the body of the unfortunate
 Governor, and after cutting and mutilating
 the face, put raw meat and tobacco into
 his mouth, jumped upon it, and treated
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 estimable
 and much
 and respected.

Reference:- Co 78/1

YC 26913

it with every possible indignity, his Wife, by birth a Buenos Ayren, described to be a young and amiable woman of twenty two, being within hearing and almost within sight of these proceedings. - These seven individuals then took upon themselves the Office of Governor and continued in this state of lawless anarchy till the arrival of a French Whaler, the Captain of which, being informed of the murder of his Countryman, and the state of lawless violence which still existed, insisted upon the Captain of the Garrison (who had fled on board his ship for refuge and protection against his own men), ordering that part of his Garrison, which had not imbrued itself in the blood of their Commander, to arrest the Apapiens, who had fled to the interior, on the arrival of the French Ship. - The Captain, who tho' himself afraid to be of the number, succeeded

1833.

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Reference:- Co 78/1

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succeeded in inducing part of the Garrison and some Gauchos - Settlers, Servants of Louis Vernet, to accompany the Crew of the French Ship and to assist them in securing the Murderers. - These were surprised asleep, they notwithstanding resisted till all their ammunition was expended, when in an attempt to fly were lassoed (caught with hide nooses) by the Gauchos and put in Irons on board an English Schooner which was lying in the Harbour, & the Captain of which was promised payment (in the name of the Buenos Ayrian Government) for its use; - there they remained till after the arrival of Captain Onslow in January, when they sailed for Buenos Ayres in company with the Schooner which carried off the Garrison. The French who participated in the capture of the Murderers, would have killed

1833.

killed them on the spot, but were prevented by the Buenos Ayreans. - The above particulars I learnt from Mr. Dickson, and his statement was confirmed by one of the Gauchos, as also by a woman who at the time of the murder was living with one of the murderers, and who according to her own statement, was informed the night previous by her companion of the intention to kill the Governor in the morning, but was afraid to advise him of his danger, tho' she confessed with gratitude his many amiable qualities, and the kindness he had shewn to all the Settlers. -

Notwithstanding I endeavoured to ascertain as accurately as possible the above details, I cannot of course vouch for their truth. - The Settlement of Port Louis is formed on the Shore of a small Cove situated
at

END

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at the North Western extremity of Berkeley Sound, and in which, Vessels drawing from thirteen to fourteen feet of water may anchor with the greatest security. - The aspect of the houses is towards the North East, - a great advantage, both as regards the prevailing South West Gales and the Sun. - There are two streams of pure water running within five hundred yards of each other, and through the village. - This consists of about a dozen straggling mud built Huts. - The house of the Governor is larger and built of stone, but in other respects, very little better than the rest, - it however contained a Sofa, Pianoforte, Table and two chairs. - On the banks of the Rivulet, which extends for some distance, and which supplies water to the Shipping, are the two Gardens of which I before spoke, and where it appeared
to

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Reference:- Co 78/1

XC 026913

to me that a plentiful supply of vegetables could be raised. - On the beach there is the ruin of the French Hospital erected at the period of their settlement in 1764. - The Walls are of stone and very thick, some of the beams of the roof still remain, but tho' this building is far superior to any since erected, and moreover is in the best possible situation, neither the Buenos Ayrean Settlers or Garrison, ever thought of roofing it and converting it to a useful habitation - An Oven still remains which also is said to have belonged to the French, and likewise a wooden Crucifix, the latter is elevated on a hill near to the entrance of the Sound. - I have been thus minute in the details of Port Louis because, in my opinion, it is decidedly the most eligible position for a settlement, and far superior to Port Egmont in every respect, except perhaps, that the Harbour

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of Port Egmout is better adapted for large Ships, on account of the difficulty then experience with a contrary wind in ascending the narrow passage in Berkeley Sound, in order to reach the harbour adjacent to Port Louis. - On this side however of this Passage, there is good and secure anchorage in eight or nine fathom water, provided sufficient Cable be given and proper caution used. - Previous to mentioning the number of the present inhabitants of Port Louis, and of the particular resources of this Island, it will perhaps be proper to give you a hasty sketch of the causes which led to the formation of the present Buenos Ayres Settlement. It appears that when the French in April 1765. abandoned the Settlement they had made at Port Louis, they left behind them a few Cattle, both

Cows

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Time	Grade	Condition	Particulars	Remarks
10:00	100	Good	100	100
10:15	100	Good	100	100
10:30	100	Good	100	100
10:45	100	Good	100	100
11:00	100	Good	100	100
11:15	100	Good	100	100
11:30	100	Good	100	100
11:45	100	Good	100	100
12:00	100	Good	100	100
12:15	100	Good	100	100
12:30	100	Good	100	100
12:45	100	Good	100	100
13:00	100	Good	100	100
13:15	100	Good	100	100
13:30	100	Good	100	100
13:45	100	Good	100	100
14:00	100	Good	100	100
14:15	100	Good	100	100
14:30	100	Good	100	100
14:45	100	Good	100	100
15:00	100	Good	100	100
15:15	100	Good	100	100
15:30	100	Good	100	100
15:45	100	Good	100	100
16:00	100	Good	100	100
16:15	100	Good	100	100
16:30	100	Good	100	100
16:45	100	Good	100	100
17:00	100	Good	100	100
17:15	100	Good	100	100
17:30	100	Good	100	100
17:45	100	Good	100	100
18:00	100	Good	100	100
18:15	100	Good	100	100
18:30	100	Good	100	100
18:45	100	Good	100	100
19:00	100	Good	100	100
19:15	100	Good	100	100
19:30	100	Good	100	100
19:45	100	Good	100	100
20:00	100	Good	100	100
20:15	100	Good	100	100
20:30	100	Good	100	100
20:45	100	Good	100	100
21:00	100	Good	100	100
21:15	100	Good	100	100
21:30	100	Good	100	100
21:45	100	Good	100	100
22:00	100	Good	100	100
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22:30	100	Good	100	100
22:45	100	Good	100	100
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23:15	100	Good	100	100
23:30	100	Good	100	100
23:45	100	Good	100	100
24:00	100	Good	100	100

This circumstance induced one Louis
Bermet (by birth a German) to whom
the Government of Buenos Ayres was
indebted a large sum of money, to apply
to that Government for a Grant of the
Island of East Falkland, together with
the exclusive right to the use of the
Cattle which were known to exist there,
and also for the sole privilege of
roving on the Seal and other Fisheries
both in the Islands of East and West
Falkland, along the Coast of Patagonia
to the South of Rio Negro, and amongst
the Archipelago of Islands, in which
are situated those of Terra del Fuego
and Cape Horn. The Buenos Ayrean
Government

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Government had in 1820 sent a Frigate commanded by Captain Jewitt to take possession of the Falkland Islands as dependencies of the Argentine Republic, and in 1823, appointed a Governor. - It consequently conceived that it possessed the right of acceding to the request of Vernet, which it accordingly granted. - This Cession, together with further exclusive privileges were confirmed in 1828 by an especial decree of the Buenos Ayres Government. - Since 1823, Mr. Vernet had carried to Port Louis at his own expence, various Settlers and a few horses, but met with little success in his attempts to establish a Colony. - He however persevered and by employing 'Gauchos', whom he had expressly brought from Buenos Ayres, to catch wild Cattle, had collected and tamed a sufficient number for the supply of Vessels which frequented the Harbour. -

finding

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finding however, that he was invested with no authority to prevent the Sealers from killing Seals on the Falkland Islands, an exclusive right to which he claimed, he asked and obtained from the Gov^t. of Buenos Ayres on the 10th of June 1829, the nomination of Governor of the Falkland Islands and Terra del Fuego. - This Appointment gave rise to the Dispatch of Mr. Woodbine Parish, disclaiming in the 19th December name of Great Britain, the right of the Argentine Republic to the Sovereignty of the Falkland Islands. - Louis Vernet notwithstanding assumed all the authority of Governor, and in his determination to exclude every other person but himself from killing Seals on these Islands, or on any part of the Coast of Patagonia, Terra del Fuego, or Cape Horn, exercised his power by seizing several American Vessels engaged in this Trade, one of which Harriett he

the 7th
number

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he remitted for trial to Buenos Ayres. — At the same time he, in his capacity of Director of the Colony, entered into a sealing speculation with the Master and Crew of the other Vessels, and in virtue of a private arrangement with these men, at this time his prisoners, employed one of these Vessels (without remitting her for trial) in this private speculation. — These and other irregularities induced the Captain of the United States Frigate "Lexington" to address a letter to the Minister for Foreign Affairs of the Republic of Rio de la Plata, in which he desires that the Republic will deliver up to the United States for trial as a Pirate and Robber, Louis Vernet, the Governor of the Falkland Islands. — This demand not having been complied with, and an angry correspondence having ensued between the Government of Buenos Ayres and the United States Consul

7th of
 mber 1831.

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Consul, without any promise of a successful
 issue. - Captain Duncan of the "Lexington"
 on the 31st of December 1831. attacked the
 Establishment of Port Louis, spiked the guns,
 destroyed the gunpowder, as also what private
 and public property he could seize, and
 at the time of his departure from Port
 Louis carried off six of the Colonists in
 Irons, whom after keeping on board three
 months he cast on shore at Monte Video.

The Superintendent of the Fishing Establishment
 who was also taken prisoner by the
 "Lexington" was, according to the Buenos
 Ayrean statement, remitted to the United
 States for trial. - Subsequent to these acts
 an American Charge' d' Affaires was sent
 from the United States for the purpose of
 settling this affair. - In his first dispatch
 to the Buenos Ayrean Government on this
 subject, he states that the Governor Vernet
 continued without bridle or subjection in
 the commission of acts of despotism
 against

Vide Official
 Published Dec.
 of the Buenos
 Ayrean Minis.
 dated 14 February
 and 18 August
 and of Louis Ver.
 dated 10th of August
 1832. -

as Duncan

Francis Baylies

20th of June 1832

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against American Citizens, till a Naval
Duncan Commander was found with sufficient
 energy and patriotism to defend and
 protect their rights under his own
 responsibility; and on the 18th August 1832,
 he declares that he has express orders from
 his Government to justify the Acts of
 Captain Duncan of the "Lexington."

It was after this attack of the
 "Lexington" on Port Louis, that the Buenos
 Ayrian Government increased the Garrison
 and gave the command to the unfortunate
 Frenchman, the particulars of whose cruel
 death I have before related. - The individuals
 now remaining on the Island amount in
 all to twenty-two, consisting of eight
 Gauchos, and one Frenchman who has
 resided six years on the Island as their
 immediate Director, - one Irishman of
 the name of William Dickson and who
 for the last three years has acted as
 Commercial Salesman for Louis Vernet;

besides

besides these, the Frenchman and two Gauchos have each a black woman attached to them, the former has a child by one, so that out of the twenty two Colonists, fourteen may be considered as Servants of Vernet. There are moreover four Indians of Monte Video, who were sent here by that Government, as turbulent bad characters, here they live peaceably and do nothing, there are also, an English Sailor who remains here voluntarily and lives by fishing and catching Rabbits, a Native of Tenerife an industrious fisherman, a German tailor, and an American black. The Gauchos or inhabitants of the Rains of Buenos Ayres are employed in lassoing wild Cattle and in attending to them after being collected in herds, in a tamed state; a service which it would be difficult to perform without them, so that in every event these Gauchos should

Miss Ver

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should be allowed to remain; they are peaceable and well conducted. - Their employer brought them from Buenos Ayres under promise of paying them monthly, twenty dollars in silver, but instead of which, he merely issued to them Paper of his own coining to this amount, so that in fact, it was perfectly valueless, except in exchange for commodities which they purchased at a high price of his Storekeeper, Mr. William Dickson. - The few trifles a Gaucho requires, procured from Mr. Dickson by means of this Paper, were therefore all the Wages Vernet ever paid his Colonists and Servants until the arrival of H. M.'s Ship "Clis", when they were paid in silver; - such at all events, was their unanimous statement. - These Gauchos would cheerfully remain on the Island under any Englishman whom the Government may please to appoint.

to take charge of the Cattle, should it ever be determined to establish here a sort of Port of Refreshment for British Ships, or to prevent the indiscriminate destruction of the Cattle. - According to the relation of the Frenchman, Director of the Gauchos, it appears that six Years ago there were about fourteen thousand head of Cattle, and a great many horses on this Island. - During the six Years he has resided on it, he has killed one thousand head a year, making in all six thousand, (The Scalpers also who call in here frequently kill cattle whenever they find them) so that, as Cows alone are killed, and as the usual means are not taken to diminish the number of Bulls, it is believed both by the Frenchman and the Gauchos with whom I spoke on the subject, that at the present moment there are not more than seven thousand head of Cattle

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on the Island. - These Cattle are sold at Port Louis for ten Dollars each, without their hides, for which five dollars more are charged if taken. - It is to be feared that Louis Vernet finding the Government of these Islands has passed into the hands of the English, may direct his people to kill off all the Cattle, and to bring away with them to Buenos Ayres the hides, a measure easily effected, because there is no British Authority to prevent it, for Mr. Dickson, to whose care Captain Onslow recommended the British Flag, who besides not being an Individual, in my opinion, much to be trusted, is an Agent of Vernet; - or what is equally possible, is that Mr. Dickson and the Frenchman, with the assistance of the Gauchos, will on their own account kill the Cattle, in order to

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to pay themselves the wages due to them by Vernet, for they still consider all the Cattle on the Island as his property, in consequence of the exclusive right conceded to him by the Government of Buenos Ayres. - Should His Majesty's Government deem the preservation of this Cattle for future purposes, either of colonization or of victualling its South American Squadron, in event of the Ports of the Brazils and Buenos Ayres ever being closed against them, it will be indispensable to leave at Port Louis, an Agent sufficiently empowered to protect it from attacks either of Buenos Ayrian Settlers or of American Whalers. - A half-pay Lieutenant or Commander in the Navy allowed to settle here as Colonist with a grant of land and Cattle, invested with

certain

bullet

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certain discretionary powers and supported by the occasional presence of a Man of War, say the Admiral's Tender on the Rio de Janeiro Station would answer every purpose, without other expence to Government than his pay, if permitted to participate in the profits arising ^{out} of a well regulated supply of Cattle to the Whaling, Sealing, and homeward bound Vessels, which call in to refresh. - The remainder of the profits derived from this source, would pay the Gauchos and all the necessary expences of the small establishment which would be required to be kept up. A few Settlers from the Coast of England would be a desirable object, as with their previous knowledge of fishing, a good traffick in Salt Fish might be carried on with Brazil and Buenos Ayres, where the consumption of this article

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article is very great: indeed this traffick
was successfully attempted by Vernet.
Sealing expeditions would likewise
form a lucrative source of enterprise. —
Coffee and Sugar could be obtained at the
Brazils, so low in price, or in exchange
for Salt Fish, as to render their importation
into the Island, for the supply either of
outward or homeward bound Sealing and
Whaling Vessels, — an Article of profitable
Trade. — It might also be exchanged with
the homeward bound Vessels for Cacao of
Guayaquil, and thus a supply of this
latter Article obtained, sufficient to
carry on a good commerce in it with
Brazils, Buenos Ayres and the
outward bound Sealing and Whaling
Vessels. — Rabbits are so abundant
that Mr. Dickson assured us he had
in store at the time of our arrival,
twelve hundred dozen of Rabbit skins
which

(END)

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which here produce a dollar a dozen for the Market of Buenos Ayres, where, on account of the demand for them this high price is given. - According to the opinion of the Gauchos there is fine pasture, sufficient for rearing any amount of Cattle. - Sheep, which could be procured at Monte Video for about one Dollar each, would be particularly well calculated to this Country, and their pasturage would form another branch of agricultural industry. - The Island Horses are not considered by the Gauchos as sufficiently strong to resist their hard work, but their breed might be improved. - Vernet imported fifty Buenos Ayrian horses, which is the only property he can claim as his own, for the Cattle, I presume, belong to the rightful owner of the Soil. - In fact, with the exception of wheat which perhaps may be produced, or at all

events

events procured of the American Sealers or Whalers, in exchange for Cattle, Milk, Butter or Cheese which could be plentifully obtained by a graduated distribution of Milk Cows amongst the Colonists, a Settler would not even at the commencement find a scarcity of provisions. The Geographical position of this Island and its local resources peculiarly adapt it for a Colonial Settlement. - It is so conveniently situated for Vessels trading to the Pacific, indeed is directly in the way, as to render unnecessary their taking the circuitous route to Buenos Ayres or to the Brazils, for the purpose of procuring Water and Provisions. - Port Louis would afford them a certainty of watering and provisioning at a much cheaper rate than they could do at either of those Countries, or in the Pacific; they would naturally therefore carry out more Cargo for the sake of the additional Freight in lieu of the extra Water and Provisions required for a

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direct voyage to the Pacific, and thus benefit both themselves and the Colony, which by this traffick alone would be progressively augmented, in proportion as the demand for produce increased. - Should at any time a Naval Depot be deemed necessary for the refitment of His Majesty's South American Squadron, this Island, distant only three weeks or a fortnight sail from Monte Video and Buenos Ayres, and three weeks or a month from the Pacific, render it the most appropriate indeed the only situation which could be applied to that purpose. - Taking then, all these advantages into consideration, I cannot but conceive that some day or other, much benefit to the British Community may be derived from the colonization of these Islands, and as a necessary consequence of such a measure, the security afforded by the presence of a British resident Agent. - Since many of the advantages

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be derived from the colonization of these Islands will result from Sealing and Fishing expeditions, and as from the particular circumstances of the Country, no inconsiderable portion of its population must for some time be composed of Seafaring Men, and as moreover all its foreign intercourse will be with people of this description; a Naval Officer would perhaps be the most fitted to fill the situation of Island Agent. - As a Naval Officer, he could be borne on the Books of the Flag Ship at Rio de Janeiro, and by this means his conduct subjected to the immediate controul of the Admiral of that Station. - Many fit and enterprising individuals would no doubt be glad to come out under such circumstances, especially if promotion was promised as a reward for good conduct, after a stated period of service. - I hazard this observation

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on the colonization of this observation only because the expense
 result from Sealing and attending the nomination of an Island
 editions, and as from the Agents, might for the present at least,
 circumstances of the Country be deemed an insuperable objection to
 considerable portion of its population
 some time be composed of such an appointment. —

and as moreover all its I have already in my letter
 resources will be with people inclosing this Memorandum expressed a
 hope that my venturing to write to your
 expectation; a Naval Officer would Lordship on a subject not connected with
 the most fitted to fill the my official Duties, may not be deemed
 Island Agent. — As a Naval as too great a presumption, when it
 could be borne on the Book is remembered that there was no Agent
 ship at Rio de Janeiro, and of the Foreign Office at this Island, who
 and his conduct subjected to could supply the local details, connected
 direct controul of the Admin with its real state. — I have therefore
 tion. — Many fit and enterpr only now to apologize for their minuteness
 would no doubt be glad to which perhaps may be deemed as trifling,
 under such circumstances, and also for the observations which
 if promotion was promised I have offered on them, but under all
 and for good conduct, after a the circumstances attending the recent
 period of service. — I hazard this re-assumption of Dominion over the
 observation Falkland

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Falkland Islands, I thought that even these trifling local details might possibly be useful. -

H. M's Ship "Tyne" having watered and taken in fresh Provisions sailed from Berkeley Sound on the 18th Instant for Valparaiso. -

(signed)

Belford Hinton Wilson
H. M's Consul General
for Peru. _____

1206 Falkland Islands
My Lord

I do myself the Honor of addressing your Lordship on behalf of Mr. Louis Vernet formerly resident at the Falkland Islands and who has a considerable claim upon Her Majesty's Government for his property there of which the Government possessed themselves.

The particulars of Mr. Vernet's claim are set forth in the several letters he addressed at the time to Admiral Sir G. E. Hamond and which were by him transmitted to this Country - I have taken the liberty of appending copies of the Correspondence upon the subject and with a view of removing and preventing a continuance of a misapprehension, which appears to exist as to the nature of Mr. Vernet's claim, solicit your Lordship's attention to the following statement praying your Lordship's pardon, if for the sake of perspicuity I should detail facts which are of public notoriety.

The Falkland Islands originally belonging to Great Britain colonized by the Spaniards were in the year 1765 taken possession of by the British Government but subsequently abandoned, from which time they ceased to be inhabited and the cattle then upon them were left to run wild and multiplied to a great degree - It occurred to Mr. Vernet who had been for about 12 months a resident at St. Joseph on the Coast of Patagonia and became acquainted with the mode in which the Indians there catch the wild Cattle that a similar course might be usefully followed on the Falkland Islands and in the year 1825 he proceeded to establish himself. He had many difficulties to contend with, his horses died in great numbers, but ultimately he succeeded in having about 80 horses acclimated and well trained to the running down and catching of Cattle.

Mr. Vernet's intentions were well known to His Majesty's Consul at Buenos Ayres Sir Woodbine Parish, who was of opinion the establishment would be valuable to the British Trade round Cape Horn.

The claims to the Sovereignty over the Falkland Islands set up by the Government of Buenos Ayres, altho' the ports of the Islands were open to British vessels which came there, and were supplied and had been supplied during 4 or 5 years by Mr. Vernet, with permission led to some disputes, and in the month of January 1833 by order of British Government His Majesty's Ship *Chloe* took possession of the Islands and of all Mr. Vernet's property there claiming on behalf of the Government - the sole right to the wild Cattle on the Islands Mr. Vernet has long ceased to exercise upon them.

Amongst other property belonging to M^r. Vernet at the time the British Government took possession was a large number of the before mentioned horses, and which were used by the British Officers for the purpose, to which they had been trained, viz^t the catching of the Wild Cattle, for without them the Cattle could not have been caught. —

M^r. Vernet has of course sustained considerable injury by the loss of his property on the Island consisting of horses, buildings, Hides, Tallow &c, but the claim that he has made is confined exclusively to the horses, which Lieutenant Smith took and used, and of which consequently the Government had all the advantage. —

M^r. Vernet is naturally desirous of having his claims & liquidated, the destruction of his establishment at the Falklands and of his Business having compelled him to call his Creditors together, from whom he has obtained a short respite. —

The powers to me are of the most ample description and he authorizes me to settle the value of the horses at the sum I may think right, and with it he will be perfectly satisfied. —

The claim therefore which I have the honor to submit to your Lordship is for 55 horses (Lieutenant Smith stated he took between 50 and 60 as will appear by a copy of his letter annexed and I beg to express the Hope that your Lordship will not deem the estimate of £100 Sterling for each horse too high and I beg earnestly to call your Lordships early attention to this application as circumstances require my departure from England to the Buenos Ayres in a short time. —

Liverpool 24. July 1839.

I have the Honor to be

My Lord,

Your Lordships most obedient
humble servant,

J. B. Smith.

Address at Port St. J.
Smith & P. & Co.

To most noble
the Marquis of
Normandy &c &c.

XC 026913

No. 1.

In Mr. Fox's H. P. of 1832.

from 1
 20th

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545 Falkland Islands

Lent. 2

Buenos Ayres;

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July 4. 1832

Sir,

As I learn from the Message of the President of the United States of America to Congress, of the Month of December last, that you are charged by your Government to negotiate with the Govt. of Buenos Ayres the settlement of certain questions arising out of events which have recently happened at the Falkland Islands, I consider it to be my duty, as H.B. Majesty's Representative in this Republic, and in order that no prejudice may be done

Don:
mis Bayles.

St. Affairs from the United
Stat of America.

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done to the rights of my Sovereign, to acquaint you, officially, with H.B.M. Rights of Sovereignty over the Falkland Islands, and with the steps which were taken, at the proper time, by H.M. Government, to assert those Rights, and prevent them from being infringed upon.

With this view I have the honor herewith to communicate to you an authentic copy of the Protest, which, by order of H.B.M. was presented by the British Charge d'Affaires to the Govt. of this Republic, on the 19th of November, 1829, against a decree that had been issued by the Authorities of the Province of Buenos Ayres, on

the

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the 10th of June 1829, containing certain provisions for the Government of the Falkland Islands, incompatible with the just Rights of the Crown of Great Britain. — I have likewise the honor to communicate to you, a copy of the letter from the Secretary of State for Foreign Affairs of the United Provinces of Rio de la Plata, duly acknowledging the receipt of that Protest. —

I have &c.

signed) N. P. Fox.

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R11

171 Falkland Is. Cont.

Buenos Ayres.

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Sept. 28. 1832.

The Undersigned R^r has observed a Decree lately published by the Government of Buenos Ayres, bearing date Sept. 10. by which a Civil & Military Commandant ad interim, is appointed over certain Stations in the Atlantic Sea, including the Falkland Islands.

His Excellency Señor Don Manuel Vicente Maya, Minister Charged with the Department of Foreign Relations is aware, that as soon as the Decree of June 10 1829 issued by the Revolutionary Authorities, at that period in possession of the Province of Buenos Ayres, and containing certain

provisions

Sub.
Don D^o M. V. Maya

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provisions for the Government of the Falkland Islands, had been made known to H. B. M. Govt. an official Protest against the assumption of any Right of Sovereignty over those Islands on the part of the Argentine Republic, was, in pursuance of the express orders of his Court, presented to the Government of Buenos Ayres by the Charge d'Affaires of H. B. M. -

At the time when the events that had occurred at the Falkland Islands during the last year, became known at Buenos Ayres, the U. S. refrained from making any observation upon those events, out of a sincere and friendly desire not in any way to embarrass the Government of the Republic, in the discussions in which it seemed likely to be engaged with

with the United States of America.-

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But lest the silence of the U.S. should by possibility be considered as implying an abandonment on the part of his Govt. of the Rights of H.B.M., it becomes his duty now again, officially, to declare to the Govt. of Buenos Ayres, that the Sovereignty of the Falkland Islands, which compose a part of the command granted in the decrees above alluded to, is vested in the Crown of Great Britain; and that no act of Government or Authority can be exercised over those Islands by any other Power, without infringing upon the just rights of His Britannic Majesty. -

The undersigned &c.

signed) H.S. Fox.

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Translation

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Most excellent Sir,

I, Don Luis Vernet,
in the most respectful and most
proper manner present myself
before Your Excellency to state,
that, being desirous of the prosperity
and aggrandizement of this country
I have thought it right to undertake
an establishment of a colony
in the Island of Soledad, one
(Falkland Islands)
of the group called Malvinas.

But as for this purpose I stand
in need of the protection of the
Government and of all that
aid which is to be extended not
only to the Head of this undertaking
but also to the new Colonists,
I have thought it would be
fitting that, for the furtherance
of this important object, Your
Excellency should be pleased
to grant to me the rights of
possession and property, and to
protect me in the same, with

regard

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Original Spanish enclosure
returned to F.O. 15 July
for Translations

Three enclosures

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THE FALKLAND ISLANDS ASSOCIATION.

TO BE INCORPORATED BY CHARTER.

CAPITAL £125,000 IN 5000 SHARES OF £25 EACH. DEPOSIT £5.

And no further Call will be made till after a General Meeting of Shareholders.

Governor.

Deputy Governor.

Directors.

Bankers.

Solicitors.

MESSRS. ROY, BLUNT, DUNCAN, and JOHNSTON.

Secretary.

The objects contemplated by this Association are, to form a FREE BRITISH COLONY, with a COMMERCIAL AND NAVAL STATION in East Falkland Island, which is separated from West Falkland by a Channel of from seven to twelve miles in breadth; and should the Government determine upon establishing a penal settlement in West Falkland, for which purpose it is most admirably adapted, the prosperity of the Company's Colony in East Falkland would be thereby greatly promoted, by securing the important desideratum, *cheap and efficient labour*, for the early operations of the Colonists; and more particularly in the construction of public works, the formation of roads, together with many other objects of general utility which might very advantageously be carried into speedy effect by the convicts, at a trivial cost, yet without any unnecessary intercourse with the Settlers, or any interruption of their own legitimate avocations.

It is very satisfactory and important to be enabled to state, that Government is favorably disposed towards this national undertaking, and consequently with a liberal charter, the objects of the Association will be much facilitated, whilst the interests and protection of the Colonists will be promoted and increased.

The geographical and relative position of these Islands, their proximity to Staten Island and the adjacent Coasts, are amply delineated in the accompanying Map, and clearly evince that the Falkland Islands are by nature destined to become in every respect a most important Colonial Possession; having within themselves all the local requisites to form a great Naval Station, capable of commanding the South Atlantic and Pacific Oceans, and also to insure abundant profits to the Shareholders by the sale and cultivation of Lands, by their various valuable Fisheries, their Cattle and Sheep Farms, exports of Potatoes, Fish, Wool, Hides, Horns, Tallow, Skins, Oils, Whalebone, Fresh and Cured Provisions, and other Commodities; by the supply of Naval and Mercantile Stores, with the repairing and victualing of the numerous Vessels constantly passing Cape Horn; the Falklands being equidistant and in the direct track between the Mother Country and the Australian Colonies and New Zealand; but to these sources of emolument will be added, the material increase that must result from the establishment of constant Steam Vessel intercourse between East Falkland and the neighbouring Coasts of Patagonia, Magellan, and Terra del Fuego, distant only by a run of about thirty hours. The friendly and frequent proposed intercourse with the well-disposed Natives of those extensive Regions, cannot fail to originate a lucrative and important trade, with a people hitherto scarcely known, whose wants British enterprise has not as yet discovered, or in any degree supplied; and civilization would keep pace with the acquirement of new and profitable markets for British manufactures and industry, whilst the mild habits of the Natives, whose disposition exhibits no tendency to acts of barbarity or cruelty, would at a very early period insure an ample supply of free labour, for the use of the Colony, and be a ready means for speedily discovering the vast natural productions of those as yet unexplored countries.

The Falkland Islands possess the unusual local advantage of not having any Aboriginal Inhabitants, and consequently the Settlers will be free from every inconvenience or danger from that source; they will thereby be relieved from the commission of any acts of inhumanity, or the injustice of expelling the natives from their natural rights and their homes; and the annexed Report, which has been carefully prepared, will fully explain the many and great resources of the Falkland Islands, and show that they far surpass any other English Colony, in the means of securing early and certain comfort and prosperity to Settlers, and form an eligible, safe, and profitable means for the investment of capital. It may be well here to observe, that the whole of the statements made in the Report are fully confirmed by the following authorities: namely, Bougainville's Voyages (French) in 1768; Anson's Voyage to the Pacific in 1744; Byron's Voyage in 1776; Weddell's Voyages to the South Pole 1821; Morrell's Voyages (American) 1832; Fanning's Voyages (American) 1830; Burney's Voyages 1830; D'Urville's Voyages (French) 1832; Beechey's Voyage in the Pacific 1831; Owen's Voyages Round the World in 1830; Captain P. P. King's Surveys in the South Atlantic in 1830; Webster's Voyage to the South Atlantic in 1830; Rea's Expedition to the South Pole in 1833, with the Report made by the Officers of H. M. Ship Chanticleer in their scientific experiments in the Southern Ocean since 1830, and other authorities.—Vide Nautical Magazines, vols. 1, 2, and 3.

It is provided in the Deed of Settlement, that with the consent of the majority of Proprietors at a General Public Meeting, the capital of the Association may be increased to such extent, and in such manner as they shall think fit.

The qualification for becoming a Director is the holding of £ stock of the Company, and the Shareholders are protected by the Charter from any responsibility beyond the amount of their respective subscriptions.

Application for Shares to be made personally (or if by letter, post paid) to the Solicitors, No. 42, Lathbury, and No. 19, Great George Street, Westminster; to the Company's Bankers; and to the Secretary, No. 55, Moorgate Street, City.

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The Falkland Islands, nearly ninety in number, lie between the latitude of 51° and 52° 45' south, longitude 57° 20' and 61° 40' west. The two largest, of considerable extent, are called East and West Falkland. The Eastern Island is the larger; being about 130 miles long, 80 miles at its greatest breadth, and narrowing to about 35 miles at the Southern point. The Western Island is about 100 miles in length, and 50 in width. Between these two Islands the channel is from seven to twelve miles across, and many of the smaller Islands are situated in this channel. It is navigable for ships of any size. The various Harbours are particularly good, being mostly formed by bays, well sheltered. The geographical position of the Islands, and their proximity to Cape Horn, render them the fittest place for vessels to touch at, bound to and from the Pacific Ocean.

The climate is constantly temperate, as is stated in various works of authority; and which is evidenced by the quantities of *wild horned cattle, hogs, horses, rabbits*, which are to be found on the East Falkland during the summer and winter, in good fat condition.

In Summer the Thermometer seldom rises above 70° although it has been at 80°. In winter it rarely falls below 30°, although it has been so low as 20°, but only in two or three temporary instances. The *weekly average at Midnight*, during the three winter months, viz. June, July and August, of 1835 and 1836, being mostly above the freezing point of 32°, and the lowest 24° from the 10th to the 16th August 1836.

The frost is never so strong as to freeze the water sufficiently to bear any weight. The snow rarely lies more than two days on the ground, and then only a few inches in depth.

The climate throughout the year is far more equable, and the nights much lighter and milder, than in England. In London the thermometer in 1838, fell in October to 26°, in November to 22°, in December to 16°, and in January 1839, to 10°, whilst at Berkley Sound, in 1836, the lowest point at midnight, of the four corresponding months, was in April 29°, May 25°, June 24°, July 25°.

Shade temperature, taken by Lieutenant Rea,
at Berkley Sound.

1834.	Morning.	Noon.	Midnight.
January 22nd	54	57	48
23rd	54	58	51
24th	54	59½	47
25th	56	62	55
26th	59	74	56
27th	56	62	54
28th	55	67	55
	7)388	7)440	7)366
Mean temperature ...	55½	63	52½

Open temperature, taken by Lieutenant Smith,
at Berkley Sound.

1836.	Morning.	Noon.	Midnight.
June 22nd	36	41	27
23rd	30	40	37
24th	43	45	34
25th	37	41	33
26th	37	39	31
27th	33	37	33
28th	37	39	37
	7)253	7)282	7)232
	36	40	33

The foregoing recent evidence must dispel all doubts as to whether the climate of the Falkland Islands be fit to live under: there are abundant proofs of its salubrity, &c., from the diseased crews of numerous vessels having been left there and speedily restored to health and strength, as well as from persons having for many successive nights slept in the open air without sustaining any ill effects.

East Falkland, which is the best Island, and should be first colonized, possesses several magnificent Harbours, with safe and strong holding ground, and natural good basins, easily and cheaply converted into Docks; and there are already places admirably adapted for using Moreton's New Patent Slip for the repair of ships bottoms without heaving them down.

The Islands are not wooded, but the advantage of a clear soil is more than an equivalent for the want of trees. It has been supposed, that the absence of wood is evidence of the land being bad, but in England, the best agricultural and pasture lands are void of timber, which furnishes the proof that the absence of wood is not an indication of bad land, and in fact all who have visited the Islands, and written works of authority regarding them, represent the soil and grasses, generally, to be very good. If there were *no easy means* of obtaining timber it would be a severe drawback, but on the opposite coasts and straits of Magellan, within four days' sail, the very finest, masts, spars, and timber for all purposes may be obtained in any quantities, particularly on both banks of the Ledger River at Port Famine, the old Spanish Settlement, where are to be seen trees of immense height measuring upwards of eight yards in circumference, also the pepper tree or Winter's bark in great plenty. Staten Island, within two days' sail, furnishes nothing but crooked wood; in other respects it is barren with a bad soil, and here a proof is furnished that the growth of timber is not an indication of a good soil, whilst, as formerly stated, the want of timber is not by any means an indication of a bad soil. The Surrey, Sussex, and Hants Downs, are void of wood, while other large portions of land in those counties, being worthless for any agricultural purposes, are crowded with trees of the best quality; many similar facts might be cited.

Slate, stone, granite, and brick-earth with copper and iron ores are abundant in different parts of the Island.

The Geological formations noticed by some German miners and others, who have visited the Islands, denote that Coal exists; and there are two varieties of peat of superior quality. The one on Peat Island, Berkeley Sound, which may be greatly improved by compression; the other in large banks in the interior, which is found at an elevation of from six to twelve feet above the general surface of the country and is quite dry, burns quickly, turns into clinkers resembling coke, and yields heat sufficiently strong to weld iron.

There are several rivers in East Falkland navigable for barges. Fish abound in these, and along the coast. Thus nature has provided every thing that can be required to render these islands not only habitable, but with such immediate and valuable resources of every description as to demonstrate the utility and success of a settlement being here formed, where owing to the absence of Aborigines no evil consequences from hostilities &c. can arise, nor acts of cruelty or injustice perpetrated by driving a native from his right or home.

The time has now arrived for this settlement, and commencing one of the most important of British Colonies. Captain Owen, R.N., speaking of his recent visit to the Falklands, describes Port Edgar as a beautiful port, *having many advantages for a settlement*, with abundance of good water, fuel, live stock, and an excellent soil; he is of opinion that timber would grow well in the valleys, and on the slopes of the hills; and that as a FREE PORT, in the hands of a spirited private Company, such an undertaking must prove eminently successful.

Emigration from our own over-populated districts, and from the islands of Scotland, now in great distress, will be thus encouraged; and by means of the various passing vessels will be accomplished with one half the delay, difficulty, expense, and time that was required for our Australasian Colonies, the distance from England being only one half, and precisely in the track of all ships rounding the Horn; at the same time a most important and essential maritime station will have been formed for the commerce and navy of Great Britain. It is a matter of surprise that these Islands have been so long neglected by this country, when they manifestly are, *the key to the Pacific*, and of the deepest moment to the government of Great Britain, but in fact it is of late only that they have become the absolute property of Great Britain. The Islands in 1775 were in British and French occupation, afterwards in Spanish, and subsequently in Buenos Ayrean occupation till 1832, when Great Britain hoisted there the British Flag, and placed on the Island a naval force under command of Lieutenant Smith, R.N. A man-of-war is now always stationed there, and it may be seen by the following extract from a New York paper copied into the *Times*, of the 13th September, 1838, that the British Government is determined to maintain all the rights attaching to the Islands.

"The New London Gazette, (New York,) contains a copy of a letter addressed to the master of the ship 'General Williams' of that place, by W. J. Scott, second master of Her Majesty's Ship 'Sparrow,' and governor of the Malvinas, stating that the British Government has taken possession of the whole of the Falkland Islands, and that all Foreign vessels are prohibited fishing or sealing round or near them. The General Williams and her Tender were warned to leave the coast as soon as possible, and informed that all foreign vessels found at any of the Ports of the Islands, after the 1st of June, 1838, would be proceeded against as trespassers."

Before the British Government took possession, little attention was paid to these Islands by any British subjects. In 1830, however, Captain Langdon, of the Thomas Lawrie, who had twice visited the Islands, induced a party in this County to entertain the idea of obtaining a grant of land, and forming a sheep farm on the eastern Island. In 1831, Capt. Langdon stayed several weeks in Berkley Sound, taking observations, &c. &c. On his return to England, he stated

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conviction to be, that the Islands, if settled, must succeed more rapidly than even Van Diemen's Land, which Captain Langdon was well acquainted with, having Property there, and being a practical farmer and flock owner. For these reasons he was fully competent to form and give a well grounded opinion, upon which Mr. Whittington, the party above alluded to, has so far acted, that he has since been continually engaged in calling the attention of the British Government to the value and position of the Islands, and to the importance of acquiring them as a portion of the British Dominions. After various ineffectual attempts made with a view of leading the British Government to take some decisive steps, they at last in 1832 sent out the "Clio," Captain Onslow, and this measure has been followed by occupation of the Islands as before stated. Mr. Whittington having been desirous of forming an association for colonizing the Islands, had various communications with the Colonial Office, and in the course of these, the two following letters are the last he received:—

"30th December, 1837.

"Sir,
"Having laid before Lord Glenelg your letter received on the 22nd instant, covering a chart and prospectus of the Falkland Island Commercial, Fishing, and Agricultural Association, and requesting to be informed whether Her Majesty's Government would be willing to grant the whole or part of East Falkland Island for the purposes of such Association, I am directed to acquaint you, that Lord Glenelg must decline to express any decided opinion on this project, until it shall be in a state of greater maturity, and especially until it shall appear what amount of funds would be pledged to the undertaking, and who may be the persons willing to assume the direction and management of it.

To Captain Gooding.

"I am, Sir, &c., " (Signed) GEO: GREY."

"GENTLEMEN,

"I am directed by Lord Glenelg to acknowledge the receipt of your letter of the 12th ult., together with the accompanying prospectus, &c., of the Association proposed to be established in the Falkland Islands, and for which the sanction of His Majesty's Government is solicited. In reply, I am to acquaint you that it is not in Lord Glenelg's power to give any definite answer to your communication, until his Lordship shall be more distinctly informed as to the proposed constitution of the Company, and as to what are the powers which the Association in question are desirous of receiving from His Majesty. His Lordship would therefore suggest that the most convenient mode of proceeding would be, for the Association to prepare the draft of any such charter as they may be anxious to obtain, to which, when submitted to him, he will not fail to give his most careful attention.

J. J. Whittington Esq.

"I am, &c., " (Signed) GEO: GREY."

These letters plainly indicate that the Government view favorably the undertaking, provided it be conducted by Gentlemen of competent skill and mercantile character. They hold out the expectation that to an Association so conducted and managed, a Royal Charter would be granted. To secure complete success to the proposed undertaking, such a Charter is indispensable; and it should comprize all the advantages given to the South Australian and Irish North American Colonial Associations, with such modifications as past experience, &c. authorize, and with such extra and favorable additions, as the situation, &c. of the Islands justify and will command.

The amount of Capital ultimately required will very much depend upon the terms of the Charter and the extent of operations.

The information acquired is so ample and satisfactory, as to fully justify commencing immediately on obtaining a Charter, with a moderate paid-up capital, say £25,000: this Capital being laid out judiciously and progressively and only as success should authorize its expenditure. With the amount so paid up much might be done and with handsome returns, and if the future proceedings of the Company should require additional outlay, the proposed Capital of the Company, £100,000, will be amply sufficient for every purpose.

In the first place a general store for supplying the colonists and vessels calling at the Island would be established, and coterminously with the erection of Stores, will commence the operation of Colonization, upon the Eastern Island, which, from its commanding position, its proximity to England, being only half the distance to New Holland, the present rising spirit of Emigration, the facility and trifling expense of accomplishing the latter by means of the frequent passing Vessels, the natural and easily available resources of the Islands, with a well digested system of internal government and management, cannot fail of producing speedy prosperity.

2dly. The bay whale, fur and hair seal, and sea elephant fisheries, would be easily prosecuted to great advantage.

3dly. The taking, salting, and drying, for the South American Markets, &c. of the various and excellent fish of 2lbs. to 16lbs. each, from 10 to 30 inches in length, which abound in the rivers, bays, and along the coast, would be another fruitful source of profit.

4thly. The providing of fuel for ships' use, from the banks and pits of fine peat.

5thly. An immediate and most desirable branch of profit and utility will also arise by the communications from the Island with the friendly and active natives of Patagonia and Terra del Fuego, within a few days' sail, with whom a Barter Trade in piece goods, small wares, iron, &c., in exchange for their native products, &c., can be advantageously opened, and the ground-work thus laid for making them and their internal resources known, and a new channel provided for British manufactures.

6thly. Besides the foregoing means for immediate employment and profit, is that of planting potatoes, which produce most abundantly on the East Falkland. These will form supplies for all calling vessels, as well as for shipment to all the South American States, to the extent of several thousand tons per annum. In those markets, and in those of New Holland there is a continual demand for this article, and at great prices, sufficiently high to induce large shipments from Ireland, Jersey, Guernsey, and France. The risks of the present long voyage (two months), and expensive freights, averaging 50s. per ton, not deterring shipments, must surely support the suggestion here made, of cultivating on the Island this great article of food. The price in the South American States is about 3 mil-reas per 128 lbs., at exchange of 30 to 36 pence, equal £7. 10s. to £9. per ton, and deduct 25 per cent. for duty and charges thereon, leaves £5. 5s. to £6. 15s. for cost of production, less a small freight from the Island, whence a passage can always be effected in from ten to fourteen days to the Brazils, free from risk of loss in cargo, by long passage. The profit of £5. 5s. to £6. 15s. per ton is so considerable on the growth that they may be sold at a much less price, and thus double the sales. Corn, and other supplies from the western coast, will be returned to the Islands by the vessels which carry thither potatoes, fish, &c., and these vessels may, if good freights offer, go elsewhere, and thus be profitably occupied.

7thly. The salting of beef for the markets of India, New Holland, and the West Indies, is an immediate and so valuable a pursuit, as to require no comment in its favor.

8thly. The various skins, hides, horns, tallow, whalebone, whale, seal and fish oils, &c. will be valuable returns to England.

9thly. The abundance of kelp will afford large supplies of barilla for England, as also a cheap and ready manure for the growth and culture of hemp and flax, important and valuable productions, which, with wheat, turnips, and barley, have been tried, and found to succeed satisfactorily.

10thly. The profits which will accrue from Wool must be very considerable on the amount of capital invested in sheep, of which very large flocks may be advantageously introduced from South America at a very small cost per head, both in purchase and transit; the facilities for accomplishing the latter by means of Steam, or otherwise, by reason of the moderate distance from the Brazils, Buenos Ayres, &c., being highly important and favorable to this undertaking. It has been proved by Mr. Vernet, that the soil and climate of the Falklands, very materially improved the quality of the wool from the sheep he took there from Buenos Ayres, which will be most essentially augmented by introducing all the rams from England only. It is also a most valuable fact, that the wool grown on East Falkland, will be wholly free from Biorres, which at present so prevail in all the South American wools, as to depreciate them fully to the extent of one shilling per pound.

It is clear that if the Falkland Islands are ever to be colonized, it can only be done by a Company under a Royal Charter, and no fitter time can be found than the present, when the Islands have become British property, and when many of the states of South America are in a state of blockade. And in the event of any warlike movement, the Falklands will form a valuable maritime possession, none existing within 3000 miles of Cape Horn, for the protection of our now extensive traffic in that direction; and as these Islands will be under the mild and safe dominion of Great Britain, affording protection and furnishing supplies to the shipping, they will at an early period become an entrepôt, to warehouse and exchange the manufactures and merchandize of Europe, for the varied productions of South America.

In reference to the *Pacific and other steam navigation*, it is apparent that the Falkland Islands cannot be dispensed with; they form the precise position which is required for vessels returning from New Holland, China, and to and from South America, or otherwise rounding Cape Horn, and no where can they, except at East Falkland, so well, so cheaply, or with less delay and risk, under any circumstances, find all their requisites, with British aid and protection.

The saving in time and expence, particularly for the *homeward bound Traders and Whalers*, is a matter that must command the attention of Ship owners, many of whom are well aware, that in going to the Brazils,

1stly. *The Delay* is from a month to six weeks, arising from tardiness in obtaining *inferior Supplies and Repairs*, from foreigners, at a very high rate, in proof of which, the recent cases of the "Jauc Sheriff" and "Hercules," with numerous others, are referred to; as well as vessels having afterwards to beat out against trade winds: which objections will be avoided at the Falklands.

2ndly. *The Port-charges* on a vessel of 250 tons merely putting in for refreshments at any of the Brazilian Ports, amount to the enormous sum of £30, with an additional charge for Anchorage Dues of £1 16s. per diem, for 50 consecutive days, whilst it is designed by the Association that the entire Port Charges shall not exceed 3d. per ton on any ship entering and anchoring without the aid of the Company's Servants and Moorings, and only 6d. per ton in all cases, where such services are required.

It cannot but be remarked as a fact of the greatest importance, that throughout the East Falkland there is not only abundance of *fresh water and good pasturage*, but that cattle and horses which have been so difficult and expensive to rear in other colonies, abound on the Island, and are immediately applicable to the uses of the colonists, assisting in the cultivation of the soil, and forming a most extensive and valuable article of commerce.

From all those sources, and which are exclusive of the advantages to arise from the *Sale of Lands*, it cannot be doubted that upon the capital at first applied, a quick and large return will be receivable by the Shareholders in the Association.

The following Letters fully confirm the foregoing remarks:—

Copy of a Letter received from the late LORD COCHRANE.

SOUTHAMPTON, 9th November, 1834.

SIR,

I regret that my absence from Town has prevented my having an opportunity of meeting you on the subject of the Falkland Islands, the adequate colonization of which is highly interesting to the country.

The old vessels of war which are now annually sold and broken up under bonds of penalty, and the cast-off stores periodically disposed of for a trifle, all of which are good enough for any ordinary purpose, would effect this object in an ample manner, and would form fortresses, stores, and houses, during the infancy of this establishment. Even, should Government not consider the subject as one of *national importance*, authorizing them as the Guardians of the public purse to grant these facilities, yet the undertaking cannot be of great expense compared to the advantages that may be fairly anticipated in a commercial point of view, wholly independent of the value of these places in war as a Naval Station.

I am, Sir,

Your obedient Servant,
DUNDONALD.

To G. T. Whittington, Esq.

Extract of a Letter received from HER MAJESTY'S CONSUL.

MONTE VIDEO, January 9th, 1835.

MR. WHITTINGTON,
SIR,

I received in due course, although I have been unable to acknowledge it sooner, your note of the 6th August last, conveying prospectus of the Falkland Islands Association. You have my best wishes for the success of that experiment, and shall also have my best assistance if you will take the trouble to point out the way in which it may prove useful. There has been a sad case of shipwreck lately near Cape Corrientes; an English Brig, William 4th, after meeting with storms in passing Cape Horn, was at length driven on the shore in question; had her Captain been certain of finding in the Falkland Islands, a port wherein he might securely victual and refit his vessel, the loss of lives and property which we have now so much to deplore would not have occurred.

I remain, Sir,

Your obedient Servant,
HAMILTON HAMILTON.

Extract from the Ship News in the MORNING CHRONICLE of 11th December, 1833.

The Stag, 46, Commodore Sullivan, C. B. and the Sparrow, Lieutenant Lowey, were at Rio on the 17th August, the latter was preparing to take to the Falklands a stock of Sheep, Fowls, and Seeds of all kinds, for propagation.

Copy of a Letter received from LIEUTENANT SMITH, R. N., resident Governor of the FALKLAND ISLANDS, from the year 1835 to 1838.

MR. G. T. WHITTINGTON,

SIR,

3, LYON'S INN, 17th December, 1833.

I have perused with attention and return your report on the Falkland Islands. *After living four years and a half on the Eastern Island*, I feel justified in saying that your statements are fully borne out in every respect by my own observations and trials; that a well-directed Colony must flourish rapidly is beyond a doubt; they are besides a key to the Pacific. There are some detailed accounts at the Admiralty worthy inspection. So highly do I think of the Islands as a British Settlement, climate, resources, &c., taken in the aggregate more immediate and generally desirable than any of our other early settlements, that I should prefer, and would gladly take an active part in forming a Colony and reside there with my family. The small settlement that now actually exists at Port Louis, East Falkland, though the inhabitants are there only on sufferance, without an inch of ground they can call their own, are thriving rapidly, which speaks volumes.

I remain, Sir,

Your obedient Servant,
H. SMITH, LIEUTENANT.

DEAR SIR,

2, STANHOPE TERRACE, HYDE PARK, 28th December, 1833.

I shall be glad to see the Falkland Islands permanently settled as a British Colony, either by Government or by a Public Company, under the sanction of Government. My impression is, that the Islands would form an excellent Penal Settlement; you will find my opinion, and some official documents on the subject, in the Appendix to my Work, which will appear in January next, entitled, "Colonies of the British Empire."

To G. T. Whittington, Esq.

Faithfully Yours,
(Signed) R. MONTGOMERY MARTIN.

DEAR FRIEND,

9, LOWER BROOK STREET, GROSVENOR SQUARE, 7. 4. 39.

I have only this morning received thy letter. I am greatly interested in your project and shall be glad to aid in its execution, as I see it may advance the cause of humanity not less than that of commerce, but then much will depend upon the plan to be adopted; on this I should like to confer with thee.

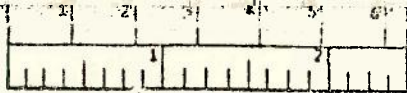
To G. T. Whittington,

Thine Sincerely,

T. HODGKIN.

Extract from the Ship News in the Times of the 22d April, 1839.

The Orestes was at Monte Video on the 29th January, as well as the Stag-frigate, the Commodore being on his way to visit the Falkland Islands where he would find the Arrow, Sparrow, Basilisk, and Wizard, the Imogene, Sparrowhawk, Fly, and Harrier, are in the Pacific.



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REMARKS TO THE MAP AND REPORT.

THE Falkland Islands lie in latitude 51° to $52^{\circ} 45'$ south, longitude $57^{\circ} 20'$ to $61^{\circ} 46'$ west, distant at Berkeley Sound about 400 miles east of Patagonia, 360 miles N. E. of Terra del Fuego, 300 miles N. E. of Staten Island, 500 miles N. E. of Cape Horn.

EAST FALKLAND.—Berkeley Sound, at the east point, is about 12 miles in length, at the top whereof is the present Settlement of Port Louis, in latitude $51^{\circ} 32'$ south longitude, $58^{\circ} 11' 30''$ west, variation 20° east, high water full and change 10h. 30m., safe anchorage throughout and superior fresh water. Whittington Harbour and Fort William are easily accessible to vessels navigating from or to the Pacific; each afford capital anchorage.

WEST FALKLAND.—Port Edgar, at the south west entrance to Falkland Sound, is in latitude 52° south, and in longitude $60^{\circ} 17' 12''$ west, easy of access and with good anchorage. At West Point Island the anchorage is in latitude $51^{\circ} 24' 15''$ south, and longitude $64^{\circ} 36' 30''$ —very little current—tide rises nine feet, full and change of 7h. 30m. A. M. moon, at

N.B. At the Falklands, Kelp is the unerring symbol of Rocks under water, and although in some places they lie very deep, they nevertheless indicate rocks with equal certainty as if they were buoyed.

STATEN ISLAND is in latitude $54\frac{1}{2}^{\circ}$ to 55° south, and longitude $63\frac{1}{2}^{\circ}$ to 65° west, and has several good harbours; New Year's and St. John's are most known—the first on the North side, the latter at the East end, where there is a very heavy tide-rip, so that slack tide is the proper period for entering.

WINDS AND WEATHER.—At the end of October the wind begins to draw from the North, and continues Northerly to the middle of February, when it generally blows between S. W. and N. W. until the middle of May, then from East up to the end of June; in July, August, September, and October, the prevailing winds are between S. W. and N. W.; and in March, April, August, and September they are principally S. and S. W. The strongest winds are from the South, occasionally shifting a point or two, and lasting from 20 to 30 hours during the Equinoctial months. Wind at East rises light, but should it veer to South, it may be expected to blow hard. Wind at North comes on gradually, and in about 30 hours draws to N. W. shifting to S. W. All gales, however, are of very short duration, especially in summer, when they blow in short gusts between S. W. and N. W., moderating to N. and E. with fine and calm weather. Vessels may safely anchor any where with a S. W. wind, but more care is requisite when the wind is at N. W., which is apt to shift suddenly to S. W.

DOUBLING CAPE HORN.—The difficulties and dangers which were supposed to attend the doubling of Cape Horn, originated in the error of constantly standing too close in with that shore, and in passing at all times through the Straits of Le Maire, which should not be done, more particularly during the months of March, April, August, and September, at which periods the winds and tides are much stronger from the Southernmost points of Cape Horn and Terra Del Fuego, where from local causes will be found a prevailing West wind, occasioning the danger of drifting upon Staten Island by the strong Easterly current. All vessels rounding Cape Horn should pass East of Staten Island, and invariably run down to 59° or 60° South before Westing into the Pacific, or Easting into the Atlantic, when they will encounter neither danger nor difficulty, and by which course they will experience steady winds, save much time, and obviate considerable wear and tear, besides being in a direct line for Berkeley Sound, where they can command safe anchorage and procure supplies.

CLIMATE OF THE SOUTHERN HEMISPHERE.—More geographical position forms no criterion for judging of Climate, however it may apply to different parts of Europe, since it has been fully ascertained that local causes and other circumstances very materially affect, and determine the climate in many quarters; it would not be supposed, although the fact is so, that at New Orleans in 30° N. in some parts of Mexico lying within the tropic, and even in the centre of North Africa in 12° N. the temperature at night is so low, in certain seasons of the year, as to produce ice. The low temperature erroneously assigned to the Southern Ocean, has resulted from the mistakes of early navigators, who were misled by their sudden transit from the heat of Rio, or the milder atmosphere of Buenos Ayres; and experiencing the change which occurs at certain periods in summer, during a southerly wind at the Southern extremity of South America, mistakenly supposed that they indicated a proportionate depression of temperature for winter, in an equal degree, as uniformly takes place in Europe. But these alterations do not apply to the Falklands; they are experienced at Cape Horn and originate in a strong South wind in summer coming from and passing over the ice, in lat. 65° to 70° S. which suddenly reduces the temperature at times from 75° to 55° although it again rises with a change of wind to W. N. and E. to its former elevation; the early navigators hence concluded, that the climate was proportionably affected in winter, which idea has been wholly refuted by more correct observation, and by the more unerring evidence obtained from long residence at the Falkland Islands, an uninhabited country, contrasted with three years' temperature there and in England, where the air is meliorated by dense population, buildings, and various other local causes, which are well known to greatly affect the temperature in all situations; yet it is practically proved that in the Falklands the difference of climate during that period was constantly superior or more favourable than that of England, to the extent of many degrees in each year.

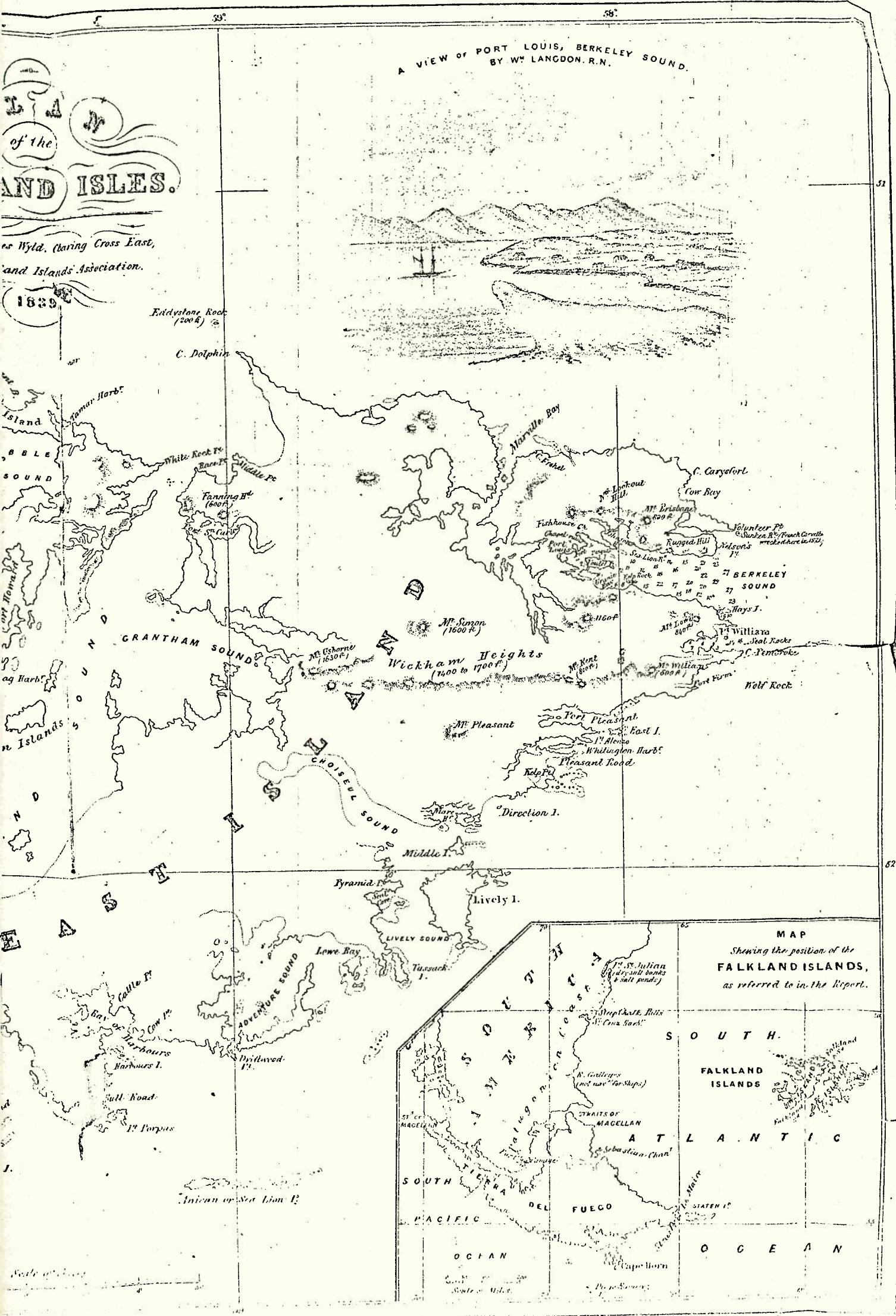
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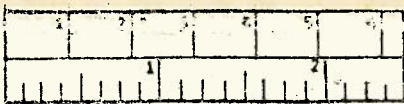
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er Wyld, Charing Cross East,
and Islands Association.

1839

A VIEW OF PORT LOUIS, BERKELEY SOUND
BY WM LANGDON, R.N.





Reference:-

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END



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Reference

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Star!

359 Falkland Islands



City 20 Feb 1840

Sir

Herewith I have the honor to
 send for your perusal an our Report
 on the Falkland Islands. Assoc.

Having devoted many years to this
 subject, I feel justified, on Public Merits,
 in soliciting yr aid & influence to
 further my views.

Respectfully yr mo. ob. Servt.

G. W. Whitworth
 13 St. John's Lane

To Jas Stephen Esq
 &c &c

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reference:-

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St

Sheffield:

W. Labouchere

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of

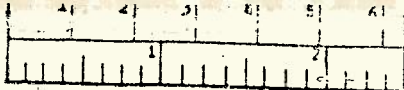
Sir

hand for you
on the 1st

Having been
subject, I
in soliciting
furthering

Re.

To Jas. Steph.



Reference: 1078/3 26938

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RH

PRIZE WHEAT.

THE
WHITTINGTON NEW WHITE WHEAT,
FOR
WINTER OR SPRING SOWING,
the Society's
WHICH OBTAINED A MEDAL AT THE

LIVERPOOL AGRICULTURAL MEETING IN 1836,

at the Manchester 1838.

The origin of this Wheat was Three Ears discovered on a Mountain in Switzerland.

The attention of Agriculturists is again called to this very valuable, prolific and perfectly hardy variety of White Wheat. The peculiar Properties of which are its ripening much earlier than any other kind, its length and strength of Straw, largeness of Ear and Grain, and the superior quality of the Flour it produces, which can be attested by several well-known Surrey Millers. The Propagator, Mr. WHITTINGTON, (who has been a practical Agriculturist, Land Agent and Valuer for upwards of 40 years,) is so perfectly satisfied, from the impartial trials he has made during 7 years on Poor Soils, of its growing MORE STRAW, of its SUPERIORITY IN STANDING THE WEATHER, over any other kind, and of its not DEGENERATING IN PRODUCE OR QUALITY, that he intends, for the future, to sow no other sort.

The Introducer of this Wheat strongly recommends, if the soil be rich and kindly, that very little or no manure be applied.

Twelve Bushels sown on ordinary Wet Land in common cultivation, produced last year 300 Bushels, and a similar sowing on light poor Land, gave equally favourable results. Two bushels per acre have been found an abundant Seeding, on account of its great disposition to Tiller, several single Grains having produced each from 30 to 40 Ears, many of which were 7 inches, and few under 4 inches in length.

It has this year been satisfactorily proved by three disinterested Farmers who have sown it so late as the MIDDLE OF MARCH on very indifferent soil, to be a most RAPID GROWING and superior SPRING WHEAT, the crops from such sowings being quite as forward to harvest as some sown before Christmas, and calculated to produce at least from 32 to 36 Bushels per Acre! Mr. MOVATT, of Stoke, near Guildford, transplanted on the 10th of March without Manure or watering, a portion of this wheat from a sowing in the Autumn and which was in every respect equal to the untransplanted portion, and far surpassing several other kinds growing in the same field.

Various testimonials received this year from impartial parties* of its superiority over other kinds of Wheat in withstanding the late unusually severe Winter and unpropitious Spring, and especially its QUALITIES FOR SPRING SOWING, prove this to be the most desirable Wheat known.

As very many Gentlemen were disappointed last season in obtaining any of this Wheat, and as only a limited quantity will now be for sale, the earliest orders must of course have the preference. Price £8 per Quarter delivered Free, New Sacks included, to any Place in London, and not in less quantity than a Four Bushel Sack.

- * Amongst which from Colonel LECOURTEUR the well known author of the Work "on the varieties, properties and classifications of Wheats"

THE WHITMORE BLUE PEA,

Which is only adapted for Sandy and Poor Land,
Will be ready for delivery in January, 1839, at £8 per Qr.

Applications, (with Remittances, or Orders, for Payment in London) to be made to

Messrs. THOMAS GIBBS & Co., Seedsmen, &c.,

To the Honorable the Board of Agriculture of England and Sweden, Corner of Half Moon Street, Piccadilly, London.

Mr R. N. BURTON, Factor, New Corn Exchange, London;

Or to the Proprietor,

Mr. WHITTINGTON, Whitmore House, Ripley, Surrey.

AND No. 13, SIZE LANE, LONDON.

N. B. SPECIMENS to be seen, and the Seed obtained ONLY from the above named Houses.

CHARLES SMITH, Printer, 6, Hart Street, Mark Lane.

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Reference:-

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RN

Sir

City 20 Feb'y 39.

I have the honor to enclose for
your perusal & consideration, our
"Report on the Falkland Islands"
Having ^{devoted} years of attention, &c. to this
subject, I feel justified, on general
merits, in soliciting, your patronage
& support for the furtherance of
my views, in carrying out this
undertaking.

Yours faithfully

G. W. Wright

13 St. George's Lane

To The Rt. Hon.

Mr. Labouchere M.P.
in the House of Commons

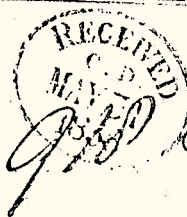
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Reference:-

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RN



Falkland Is^{ls}
City 29 May 1838.
No. 13 Tice Lane

My Lord

I have the honor to confirm
my last letter of the 11th Inst^{ce}: and
am now directed to acquaint you
that Mr. Burton Gooch, has been,
from improper conduct, &c. dis-
-missed in-toto, from all connection
with the Falkland Islands Assocⁿ!

I have the honor to be

your Adship's
Most ob^{dt} S^{vt}

G. W. M. M. M.

To The Hon^{ble} How^{se}
Lord Glenelg
Am. St. St.

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Lord G.
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14 Mary R. H. H.

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P. 11

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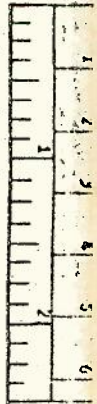
City 11 May 1838.

My Lord

I am directed to
inform you that, according to your
suggestion, the draft of a
Charter for the Colonizing, &c. of
the East Falkland is in active
progress, under the Solicitors
Messrs. Blunt, Roy, Duncan, & Johnson
& will shortly be handed to your
Lordship, by a Deputation from
the Directors of the Association.

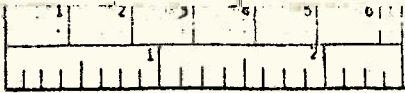
I

2 Aug 98
This does not appear to me
to require an answer. This I am not
quite clear that the London does
not expect one. //



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W. C. R. M. J. D. L. K. S. A.



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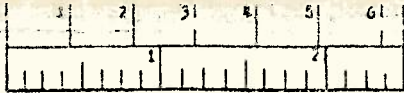
P. 11

in F. Falkland Islands

WE, the undersigned Merchants, Ship Owners, and Traders of the Port of London and elsewhere, are of opinion, that it be highly expedient for the benefit of British Commerce, that the FALKLAND ISLANDS should be Colonized, especially when we consider our increasing trade in that part of the Globe, and the vast number of Ships on their homeward passage turning Cape Horn instead of the Cape of Good Hope, as well as the great facilities it would give to the Whalers in those Seas to re-fit; The entire absence of a British Settlement in that part of the Southern Atlantic has long been felt as a grievous inconvenience, and calls loudly for a speedy remedy, rendering our Ships dependant on Foreign Ports for supplies, thereby incurring heavy expence and delay. We advise that a PUBLIC MEETING be called to carry the undertaking of Colonizing them into effect as soon as possible.

November 20th, 1837.

Arnold & Woollett, Clement's Lane, a letter of approval	Farncomb, Thos., Griffin's Wharf, Southwark
Barnes Fred: & Co., 109, Fenchurch Street	Field, John P., 61, Leman Street
Beale, William, John, & Henry, Jeffrey's Square	Fitzroy, Capt. of H. M. S. Beagle; he has surveyed the Islands, &c.
Benson, Thomas, Lloyd's	Plock & Logan, 46, Lime Street
Bishop, George, Esq., East India Chambers, a letter of approval	Forster & Smith, New City Chambers
Bishop S. H. T. & Co., Upper Ground Street	Gale & Son, Shadwell
Biddle, John, Commander of the "Asia," Chelsea	Gibbs & Sons, 47, Lime Street
Bleaden, Charles, Chairman of the Commercial Steam Boat Company	E. Goldsmith, Master of Ship Ware, trading to New South Wales
Blyth & Sons, Blyth's Wharf, Limehouse, a letter of approval	Goodwin & Lee, Bishopgate Street, a letter of approval
Bogle, Alexander, & Co., Glasgow	Gordon & Sons, 9, George Yard
Burnie & Son, Alex., 12, Great St. Helens	Gore & Co, John, 24, Lawrence Lane, a letter of approval
Borradale, Wm. Geo., Barge Yard, Bucklesbury	Gover, John, 26, Eaton Square
Bowes, George, 73, Old Broad Street	Gould, Davie, & Co. Barge Yard, a letter of approval
Brandram, Brothers, & Co., 17, Size Lane	Green, Richard, Blackwall
Brooks, Robert, Esq. Broad Street, a letter of approval	Hawks, George, Ship Builder, Rotherhithe
Brown, Geo., Ratcliff Cross	Hamilton, Hamilton, Esq., Monte Vecchi, a letter of approval
Browning, J. & W. H. 113, St. John Street	Hawley, Jno., Irongate Wharf
Buckles, Bagster, & Buckles, Mark Lane, a letter of approval	Heath, Thos., 134, Fenchurch Street
Burdekins & Hawley, 4, Warrford Court	Heverside & Co., 69, Cornhill
Burnie, Wm. & Jno., 124, Bishopsgate Street	Henington, Thos., 34, Leadenhall Street
Campbell, John, Esq., 102, Leadenhall Street, a letter of approval	Hill & Wackerbarth, 9, New East India Chambers
Chapman, E. & H., 2, Leadenhall Street	Hodgkin, Dr., M.D., 20, Finsbury Circus, a letter of approval
Clarke, Geo. & Fred., 221, Shoreditch	Hodgson & Abbott, Leadenhall Street
Clay, Samuel, 100, St. John's Street	Hodgen, Robt. Dover, 3, Crane's Wharf
Cousens, Wm., Harbour Master Office, St. Katherine's	Hobson, Thos., 144, Leadenhall Street
Cristall & Sons, Joseph, Rotherhithe	Houghton, James, Bartholomew Close
Devett & Moore, Langbourn Chambers	Humphris, John, Southwark
Domett, Young, & England, 7, George Yard, Lombard Street	Johnson, Mann, & Co., Aldgate High Street
Darther, Brothers, 15, Austin Friars	Kent & Co., Geo., Falcon Square
Dowding, Richard, Wapping Wall, Shadwell	Lacy & Reynolds, 21, Great St. Helens
Enderby, C. H. and G., Great St. Helens, a letter of approval	Legge, Robt., Jeffrey's Street, Kentish Town



Reference:-

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2

Langton & Bricknell, Newington Butts	Richardson, Thos., 72, Cornhill
Levy & Co, Moses, 2 and 3, Aldgate Street	Robinson, G. R., Esq., Chairman of Lloyd's Coffee-house, letter of approval
Mangles & Co., 27, Austin Friars, a letter of approval	Shuttleworth, Captain Henry, Burton Street
Marshall, Hutchison, & Co., New City Chambers	Somes, Jos., Ratcliffe Cross
Masson, John, Esq. Liné Street Square, a letter of approval	Sterry & Sons, Joseph, 156, High Street, Southwark
Mayor & Co., Henry, Anchor Wharf, Upper Thames Street	Sterry & Latchmore, 143, High Street, Southwark
Melhuish, Gray, & Co., St. Swithin's Lane	Sturge, Thomas, New Kent Road
Nairns, Alex., Jerusalem Coffee-house	Thomson & Edwards, King's Arm Yard
Nesbitt, J. & J., 38, Mincing Lane	Tindall, William, 34, Cornhill
Nichols & Son, 33, Seething Lane	Tomlin & Man, 26, Cornhill
Nutt, David, Stratford Green, Essex	Urquhart, James, New Corn Exchange
Nutt, David, Stratford Green, Essex, Ship Owner	Waddell, Beck, & Co., 5, Leadenhall Street
Orr, William, sen., 13, Great Town Street	Walker, Brothers, & Co., 14, South Street, Finsbury, a letter of approval
Perie & Co., John, Freeman's Court, Cornhill, a letter of approval	Warne, J., jun., 11, Leadenhall Street
Phillips, King, & Co., Fowkes Buildings	Watson & Co., 27, Poultry
Pilcher, J. G. & J., Southwark	Wilkinson, D., 12, George Yard, Lombard Street
Powles, Brothers, & Co., Freeman's Court	Wilkinson, William, 53, Old Broad Street
Pritchard, Thos., 30, West Smithfield	Willcox & Anderson, 51, St. Mary-axe
Richards, Wood, & Co., 117, Bishopsgate Street within	Wilson & Co., John, Dockhead
	Woolcombe, William, 1, Freeman's Court

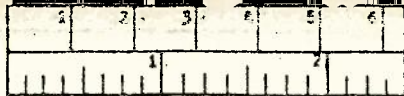
I am,

Sir

Your obedient Servant,

BURTON GOOCH.

for G. J. Whittington
13 Lichfield
city 1 hour 30m
D

Received 2^d Jan 1838London 1st Jan. 18385. Falkl^d Islands 13 Sige Lane

My Lord,

Mr. Burton Gooch, (who is now cooperating with me in this undertaking) has received a letter from Sir Geo. Grey, on the subject of Colonizing the Falkland Islands, in answer to a note written by ~~him~~ to Mr. Stephens requesting to know, how far your Lordship would be pleased to express an opinion on that question; also whether her Majesty's Govt. would grant all, or part of the Eastern Island, for that purpose? It is my province to acknowledge receipt of that letter, & to advise your

That

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P1

that I shall be ready to submit
for your Lordship's consideration
all these particulars therein
mentioned, upon which it is
your wish to be informed. —

I enclose to your Lordship a
copy of the requisition signed
by (100) one hundred of the
most respectable Mercantile
Firms in London

I have the honor

to your Lordship's

Most obedt^t Serv^t

Geo. Pitt Rivers

W. H. How:
Lord Glenelg
and the Hon^{ble}

WE, the
and elsewhere
Commerce,
we consider
Ships on the
Hope, as w
re-fit; The
Atlantic has
remedy, re
incurring h
to carry the

November

Arnold & W.
approval
Barnes Fred.
Beale, William
Benson, Thos
Bishop, George
of approval
Bishop S. H.
Biddle, John
Bleaden, Ch
Steam Boats
Blyth & Sons
of approval
Bogle, Alexan
Burnie & Son
Borradale, W
Bowes, George
Brandram, B
Brooks, Robt
Brown, Geo.
Browning, J.
Buckles, Bay
of approval
Burdekins &
Burnie, Wm
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Chapman, E.
Clarke, Geo.
Clay, Samuel
Cousens, W
Cristall & S
Devett & M
Domett, Y
Lombard
Dartler, Br
Dowding, L
Enderby, C
of approval

Intermittent
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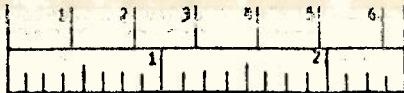


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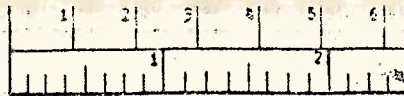
1670 Falkland Isles. Ref

No 13 Size Lane, City
26 October 1837

My Lord,

Perceiving in the "Morning Advertiser" ^(100th) a letter addressed to your Lordship on the subject of the Falkland Islands, I take the liberty of forwarding that Paper for your perusal, in case your Lordship may not have seen it. I also hand the "Times" ^(26th Oct) in which Journal your Lordship will perceive under the head of "Money Market &c," a remark on the same subject, (by the Editor I presume) arising doubtless from some recent steps taken by myself towards forming my long projected

Mr J. S. Smith. 16. 78.



Association for colonizing the Eastern Island -
your Lordship will, I doubt not, see the importance
of such a measure, more than ever, deserving the
countenance & support of the Crown, from the
determination of the Americans to have an
Establishment in the Pacific, & being disappointed
in doing so at the Falklands (for which they are
still anxious) they have adopted the Island
of Juan Hernandez, as will be seen in the
"Times" immediately preceeding the allusion to
the Falklands.

I have the honor to be

My Lord,

your Lordships

most obedient servant

The Right Hon^{ble}

Lord Glenelg

Se 26 72

G. P. M. W. W. W.

END
P. 11

ON THE NECESSITY OF ESTABLISHING A COLONY IN THE FALKLAND ISLANDS.

TO LORD GLENELG.

My Lord,—I trust you will not consider me presumptuous because I address your Lordship through the medium of the public press, but that you will rather give me credit for adopting a course which will not only draw your attention to the subject, but will also attract the attention and consideration of the commercial and maritime interest of the whole country, as to the best means of carrying out a plan so necessary and important to their various existing interests.

So far back as August, 1836, your Lordship was in communication with parties on this subject, with whom I am at present identified, and although I did not at that time take an active part in forwarding the scheme then submitted to your Lordship, for your consideration, I was perfectly aware of all its bearings, as well as its extreme national importance.

In reply to a letter addressed to your Lordship, on the subject of forming an Association in the Eastern Falkland Islands, for the purpose of effecting colonization there, your Lordship suggests that the most convenient way of proceeding would be, for an association to prepare a draft of any such charter as they may be anxious to obtain from Parliament, to which document, when submitted to your Lordship, you will not fail to give your most careful attention. An association will be formed for colonizing these islands, and a draft of a charter will be prepared and submitted to the careful consideration of your Lordship before the meeting of Parliament, and the leading interests of the country will be put in possession of all its principal features.

In endeavouring to effect this desideratum, I suggest to your Lordship no speculative theory, no crude undigested plan, no hypothesis, or misrepresentation, but, on the contrary, I am ready to present to you a mass of evidence in its favour, elicited from and attested to, by a majority of the most respectable and influential commercial and maritime men in the City of London, and the out-ports of the United Kingdom.

The Swan River settlement was effected under a variety of difficulties; but it has progressed, and is still progressing; but such a settlement as the one at Swan River is of the greatest insignificance when compared with the one now in contemplation in the Falkland Islands. In the former there were difficulties to overcome; in the latter there are none to subdue. When I assure you that the most enlightened men in the metropolis agree that a settlement in one of these islands is not only necessary in a commercial point of view, but is also in a political and moral one, I am only asserting that which I am at any time ready to prove to your Lordship, by the exhibition of documents in my possession, which will fully bear out my assertions.

Hear what that eminent and learned man, Dr. Thomas Hodgkin, M.D., says on the subject—eminent not only as the first physiologist of the age, but as a philanthropist * *

"I cannot (writes the Doctor) refrain from expressing cordial good wishes for the success of the undertaking. It cannot fail to do good to the cause of humanity, to set an example of successful and prosperous colonization, on a spot where there are no natives to exterminate or corrupt. I believe the occupation of the Falkland Islands, by an enterprising and intelligent British colony, would not only be favourable to the interests of our commerce, carried on by vessels which turn Cape Horn, but that, in conjunction with a well-contrived Missionary and other undertakings, for the amelioration of the natives in the neighbouring coast of South America, might lead to commercial relations with that region, productive of great reciprocal advantages, and exhibiting a striking contrast to the conduct hitherto shown by civilised nations to the uncivilised portion of the human race."

Is the opinion of this good and talented man to be questioned, and if so, by whom? It is the opinion of nine-tenths of the commercial and maritime men of this country, and cannot be questioned, and they are loud in expressing their feelings on the subject. What do they say? I'll tell you in a few words. They complain of the want of a British settlement in the South Atlantic Ocean, that ships returning from Australia and China, round Cape Horn, are under the necessity of putting into foreign ports to refit, not only at a great expense, but at a great inconvenience—they assert that the Falkland Islands possess every requisite necessary to form and maintain a flourishing colony—also that a colony should be immediately established there to foster the interests of those vessels trading and fishing in those seas and the colonies beyond them. These are the complaints made by merchants and shipowners, and no doubt exists but your Lordship will do all in your power to remove them. There is not one single obstacle that presents itself, or can interfere with colonization in these islands. Climate, soil, harbours, and the productions both of sea land, are in the highest degree favourable to the undertaking.

A gentleman of the name of Louis Vernet has been an inhabitant of these islands for upwards of nine years—his provisions, crops, fisheries, sheep, horned cattle, all thrive well, and pay him very handsomely. The wool produced at the Falkland Islands brings double the price of the Buenos Ayres growth, being a better staple article. The harbours are safe and commodious for shipping, and the sea abounds with fish, the soil is favourable for the cultivation of wheat and grain of every description, and in the course of a few years might be able to supply Buenos Ayres, Monte Video, and Rio Janeiro, with wheat, who are now beholden to the United States for nearly 100,000 barrels of flour yearly.

I think I have said enough to draw your attention to this important subject, and I hope your Lordship will co-operate and not impede any measures that may be adopted for its completion. I am aware that many good things fall to the ground because they are not backed and brought out by men of high consideration in society. I claim not your Lordship's attention to my letter on that score, but I claim it because you are one of her Majesty's Ministers, and what I propose is for the good of her realm, and if proved so it becomes your duty to give it the fullest consideration.

That your Lordship will do so I am perfectly assured, and that you will receive this communication with as much courtesy as though it came from the Chairman of the Hon. Court of Directors of the East India Company, or from her Majesty's First Lord of the Admiralty.

I have the honour to subscribe myself,

Your Lordship's obedient and humble servant,
No. 102, Leadenhall-st., City.

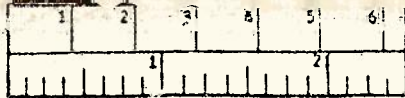
BURTON GOUGH.

The celebrated island of Juan Fernandez has become the object of a singular enterprise of an American citizen, who has taken it on a lease for a considerable term of years from the Chilean Government. The island formerly served as a place of exile for criminals condemned to transportation, but the expenses of the establishment and the increasing number of prisoners determined the Government to abandon it. The present possessor is about to emigrate thither himself, carrying with him 100 or 200 families from the Sandwich Islands, with the intention of cultivating it and of rearing cattle, and he will himself exercise an absolute and exclusive control over the administration of the island.

His projects are, however, said to be more extensive than the mere colonization for the sake of cultivation, and that he has the intention of improving the principal harbour and of laying down buoys for the safety and advantage of the whalers in the Pacific, whom he proposes to attract thither by the superior accommodations he will provide for them. In his stores they are to find an assortment of every kind of provisions; he will discount their bills of exchange at the current rates of interest; and he proposes to furnish them also, without charge, with tow-boats to facilitate their entrance and sailing. There will be no port charges, and what is of more importance, they will be protected against these desertions among the crew which occur so frequently when putting into ports on the continent or larger islands, where the facilities of escape and concealment are greater and cannot be so well guarded against.

By a system of police, rendered easy and practicable from the small extent of the island, the American possessor of this petty state proposes to make it the interest of captains of whalers to put in there to refresh and refit. The island, it is said, in the mountainous parts abounds with sandal and other valuable woods, and the interior is remarkable for the beauty of the country and the salubrity of the air. From the perseverance and enterprise of the party who has obtained possession, it is considered that this extraordinary project has some chance of success, and that it may prove of advantage to the proprietors and masters of vessels engaged in the South Sea whale fishery.

By a singular coincidence a project similar in its object, and having reference besides to direct embarkation in the fishery enterprises of the Pacific, has been latterly engaging attention in this country. This is a "Falkland Islands Commercial, Fishing, and Agricultural Association," proposing to be established by act of Parliament. Among other details in recommendation of this scheme are stated the facilities it would afford to the vessels trading round Cape Horn, many of which are in the habit of touching there for fresh water and such other supplies as the uninhabited state of the islands affords, being, however, for the most part obliged to put into St. Catherine's, where they are more readily procured and more abundant, but where vessels also are subject to heavy charges for the stores and provisions which, if settled and cultivated, the Falkland Islands are so much better situated for yielding and supplying. It is urged that it would thus form an intermediate station for vessels trading with Van Dieman's Land, Australia, and South America, and whalers in the South Seas, and so constitute a naval depot generally, the want of which is felt by British shipping, as nothing of the kind is possessed either in the Pacific or the Atlantic within 3,000 miles of Cape Horn. Besides being of easy access for whalers for refreshment and repairs, island fisheries would be established with the facility of preparing the blubber and bone on shore. Among the catalogue of recommendations put forward in behalf of the project, it is calculated that the islands might with time engross the supply of the South American markets with flour, to the exclusion of the United States, and that the wool grown there by an enterprising individual has already been sold in Liverpool for nearly double the price obtained for that of Buenos Ayres. Such is an outline of this proposed undertaking, in its main features the same as that of Juan Fernandez, but upon a larger scale, and with a more extensive territory for action. Like all projects, however, the prospects held out are of much too sanguine a character.



Reference:-

C078/3 26938

END

211

W Fraser

Barton Lock Esq

Downing Street

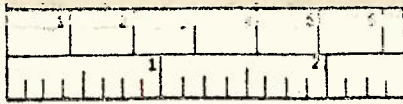
30. Dec 1837

Intend p 79.

Sir

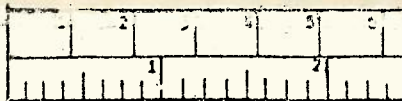
Received by	DEC
Mr. Chapman	27
Mr. Chapman	27
Mr. Chapman	27
Mr. Chapman	27

Having laid
before Lord Glenelg
your letter received
on the 22^d Inst, covering
a Prospectus of
the Falkland Islands
Commercial Fishing
& Agricultural Associa-
-tion (herewith
returned) & requesting
to be informed
whether R. M. Foot



would be willing
to grant the whole
or part of East
Falkland Island for
the purposes of
such association
I am directed to
acquaint you that
Lord Glenelg must
decline to express
^{decided} any opinion on
this project until
it shall be in a
state of greater
maturity & especially
until it shall appear
what amount of funds

J. P.



Reference:-

C078/3 26938

END

p. 11

would be pledged
to the undertaking
& who may be the
Persons willing to
assume the direction
& management of it.

I am ~~Sam~~ ^{Sam} to inform
that the requisition
of the ^{possibilities} ~~referred~~
~~to the~~ ^{referred} ~~to the~~
requisition.

I presume it is
as I do not see it -

25
27 Dr

The return of the form
has expected was
not transcribed ^{in full} to
Lundford

1	2	3	4	5	6
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3/27/00

Reference:-

OF THE

*Falkland Islands Commercial, Fishing, and
Agricultural Association,*

TO BE ESTABLISHED BY ROYAL CHARTER.

1	2	3	4	5	6

CO 78/3 26938

END

P. 11

PROSPECTUS
OF THE
Falkland Islands Commercial, Fishing, & Agricultural
ASSOCIATION,
TO BE ESTABLISHED BY ACT OF PARLIAMENT.

CAPITAL £ IN SHARES OF £ DEPOSIT £ EACH.

Patrons.

Provisional Committee.

Bankers.

Mr. Charles C. H.

Solicitors.

Secretary.

James Lusk

The objects contemplated by this Association (which upon investigation will be found, from its natural resources, utility, and beneficial employment of Capital, to merit the fullest confidence of the Public) are, to form a Colony on the most Easterly of the Islands, the unusual facilities and advantages of which are demonstrated in the subsequent remarks: to create in the magnificent and secure Harbours of Berkley Sound and Fort William, that important national object, a naval and commercial Depôt for the shelter and repair of the numerous vessels now navigating the South Seas; to erect an establishment for supplying fresh and cured provisions, naval stores, water, fuel, and other requisites; to select parties properly qualified for carrying into effect, extensive and most valuable fisheries, cattle farms, &c. for all of which nature has here prepared every thing ready for the industry of man, with the superiority of important adjacent markets.

The primary benefits proposed to the Shareholders in this undertaking, will be the profits arising from Harbour Dues, Pilotage, the Sale or Rental of Lands, &c. granted to the Company, the naval and mercantile Stores, the various Fisheries, more extensive than those of Newfoundland, the Grazing Establishments, and such other legitimate objects, as are hereafter alluded to, which require only a small outlay for setting them in motion, to produce handsome remuneration.

The affairs of the Company will be conducted by the Provisional Committee, until a general Meeting of the Shareholders is called to approve of such regulations for the future management of the Company's affairs as may be deemed expedient.

It is proposed to allow the Shareholders (besides the profits) Interest at the rate of 4 per cent. payable half yearly on the amount of capital subscribed: three-fifths of the net proceeds may be divided every year amongst the Shareholders, and the remainder invested in Government or other approved securities, as a reserved fund.

The Shares to be granted will be subject to such clauses and conditions as are usual for regulating the operations of Joint Stock Companies.

Application for Shares, &c. &c. to be made to

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100
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Reference - C078/3 26938

EXPLANATION AND RESOURCES

OF THE

FALKLAND ISLANDS.

If it be demanded, what are the grounds upon which public confidence is claimed for this undertaking; the answer to be given is, that its objects are founded upon the indigenous and adventitious advantages, which combine to render it a secure investment for capital, commanding quick returns and ample profit. To demonstrate that such is the fact, it will be requisite to develop the resources which those Islands possess, and the ultimate advantages their commanding locality offers, both commercially and politically; these, being full known, will enable individuals to form a correct and accurate opinion of the great benefits that would accrue from Colonization and the Establishment of Commercial operations in that quarter. It will be proper to remark, that from recent information and evidence, official and non official, it has been found that these Islands are blessed with a Fertile Soil, favourable Climate, with many natural resources and advantages beyond those of other Colonies belonging to the British Empire, and must be regarded as the Key to the Pacific Ocean.

The Falkland Islands, ninety in number, (the two largest whereof being each nearly one hundred miles in length and fifty in breadth,) are situated in latitude 50 deg. 58 m. to 52 deg. 46 m. South, and in longitude 57 deg. 20 m. to 61 deg. 29 m. West, within a week's sail of Buenos Ayres; in proof of the temperature during Winter, there is no instance of Snow lying upon the ground beyond two days, and rarely more than twenty-four hours. Vegetables, such as Cabbages, Carrots, Turnips, Onions, and other greens, live throughout the Winter, and Potatoes left in the ground produce most abundantly the ensuing year; Strawberries, with several other useful plants, herbs, and grasses, grow in a wild state. The thermometer has rarely been known to fall below 32 deg. of Fahrenheit, and is generally during Winter considerably above the freezing point. In Summer, it does not rise above 75 deg. in most years, although in some it has risen to 80 deg. in the shade. That the soil is rich is very evident from the Herds of Wild Cattle, Horses, Hogs, &c. which exist on the Islands; their size and condition testifying that they enjoy luxuriant pasturage, and a constant supply of food. The existence of those animals in a Wild State, is an incalculable advantage to early Settlers, securing to them at the outset, food, with useful animals for Draft and Agricultural purposes, at a trifling cost, whilst all the other Colonies have been and still are, compelled to import Cattle, Horses, &c. at enormous expense, which with the insufficient supply are insuperable impediments to prosperity.

The advantage of a clear Soil is more than an equivalent for the absence of Trees, as the Settler is relieved from the difficulty of clearing the land from Wood, which is a laborious, expensive, and dilatory process, and from which he will here be exempt. There is abundance of Clay and Stone of superior quality for Building, and an inexhaustible supply of excellent Fuel, approaching to Coal, of which latter the strongest proofs are apparent, as also Mines of various Ore, with indeed almost every requisite and lucrative prospect for an Infant Colony. Timber for all domestic purposes, can be had in any quantity from Staten Island, which is only two days' sail from the Falklands; from the opposite Coasts, and Straits of Magellan within four days' sail, may be obtained abundance of the finest Spars for Ship's Masts, as also plenty of the best Timber for Ship Building. The numerous navigable Bays and Inlets abound with Whales, many Sea Elephants, and fur Seals: they are also plentifully supplied with Sea Fish for human food, and well adapted (when cured,) for the South American and Brazilian Markets, where Potatoes and Corn find likewise a most extensive sale, at very high prices, whence their various productions can be easily and advantageously procured for the use of the Colony and calling Vessels. The Shores of the various Islands are covered with Sea Weed, which is an excellent Manure, and at little expense can be rendered applicable to the use of the Soap Manufacturer, and many other purposes. There are many eligible Harbours, both in the Eastern and Western Islands, as may be seen by the recent Charts, in possession of the Company, but Berkley Sound claims the principal notice, being an Inlet or Bay extending inwards thirteen miles, with sufficient depth of water for the largest Vessel, and capable of containing a numerous Fleet; it is eight miles in width at the entrance, and five miles at the inner extremity, the soundings running from thirty to four fathoms, with excellent anchorage throughout, and with the important advantage of close Harbours, or Basins, easily convertible into Docks, even at present admirably adapted for heaving down large Ships for repairs.

It will not with Englishmen be considered a small recommendation to the success of this Association, that the completion of their objects, will greatly conduce to the best interests of the Country, by Establishing a Naval Depot in the immediate neighbourhood of the Coasts of South America; none existing either in the Pacific, or Atlantic, within about 3000 miles of Cape Horn. The want of an English Port is strongly depicted in the publication of Anson's Voyages, pages 294 to 298, wherein the situation of the Falkland Islands, then almost unknown, is so urgently pointed out; from being obliged to put into a foreign Port, (St. Catharine's) for supplies, he experienced the greatest caprice and delay on his celebrated expedition to the South Pacific, &c., his position also made known to the enemy, (Spaniards,) by which Pizarro, the Spanish Admiral, gained several days in advance of sailing.

The possession of so ample a Harbour, as is afforded by Berkley Sound, is a matter of great national importance, where the whole British Navy may ride with perfect safety, speedily refit, &c. so as to be constantly ready for the protection of English Commerce, now of such extensive and increasing importance in that quarter of the Globe.

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The whole of the Islands are bountifully supplied with the purest and finest water, there being many Rivulets intersecting the Lands in all directions, the advantages of which for the Settlers, and for the use of Shipping, cannot be estimated too highly, being equally conducive to health, and beneficial to Agriculture, as also to future Manufactories and Establishments, which may hereafter be brought into operation in the Colony.

The abundance of Wild Cattle, Pigs, &c. already upon the Islands, afford every facility for the supply of fresh and salted Provisions, and the advantageous locality of the Falklands, especially for Vessels returning from Van Dieman's Land, Australia, South America, and the South Seas, cannot fail of insuring a lucrative branch of Trade, at the very commencement of the undertaking. This is no imaginary statement, for, without any of those inducements, which the certainty of obtaining Provisions, and all other requisites, would hold out to Shipping on their return voyage, a very great number touch annually at the Falklands for various purposes, rather than incur the heavy expense, trouble, risk, and delay of proceeding to the Brazils, &c. which otherwise they are compelled to do; making a difference thereby of often a month in their voyage home; with great pecuniary injury to the Owners and Cargoes.

The Association will immediately found fisheries, and employ persons properly qualified, for carrying that most important object into speedy effect. It requires no argument to prove the vastly superior benefit of a Whale Fishery carried on upon the immediate Coast, saving thereby the enormous outlay for Shipping and Provisions for a long period, unavoidably incurred in the South Sea and other Whale Fisheries; affording to the Island Fisheries, the facility of preparing the Blubber and Bone on shore; from this unfailing source, the Association will derive large profits, in which the Settlers shall participate; for it is well understood that the prosperity of the Settlers, will be also the sure means of increased advantage to the Association, and in fact by the contemplated arrangements, the good of all parties will be inseparably united.

Co-equal with the erection of Stores, will commence the operation of Colonization, upon the Eastern Island, which from its commanding position, its proximity to England, being only half the distance to New Holland, the present and rising spirit for emigration, the facility and trifling expense of accomplishing the latter by means of the frequent passing Vessels, the natural and easily available resources of the Islands with a well digested system of Colonization, cannot fail of producing speedy prosperity; instead of leaving the Colonists to their own unaided exertions, and so exposing them to the misfortunes that have befallen the early Colonists at the Cape of Good Hope, Swan River, and other Colonies, it is determined by this Association to insure the Colonists, in the possession of at least all the real wants of life, with many of its comforts. For this purpose the first labours of the Settlers will be devoted co-operatively, in securing comfortable abodes, and as many hands make light work, they will, under judicious arrangements, be also employed in cultivating a common farm, for the supply of all, so that famine cannot approach them, during the early operations of the community; and whilst these preventive measures are in progress, the Settlers' time being properly appropriated, part for the general benefit, the other portion will be at their own disposal, for the cultivation of their individual allotment; and for the early use of the Settlers, Flour, Biscuit, &c. in bond, will be supplied from England; Corn and Flour can generally be purchased in Chili, and Van Dieman's Land, at an exceedingly cheap rate, and will be brought by Vessels passing the Islands, at a very low freight, from the frequency of their not having full cargoes, and with the prospect of here completing their lading, with Oil, Whalebone, Fish, Salted Provisions, Hides, Skins, Tallow, Kelp, Wool, Hemp, Flax, &c. &c.

From Colonization of the Falkland Islands, which have hitherto been so strangely overlooked, it will fall to the Settlers, to have the facilities of originating entirely new sources of Commerce for the British Empire; they will, from their locality, have an early opportunity of intercourse with the inhabitants of the Eastern and Western Coasts of South America, and the interior of those regions now so little known, which range right and left of the Straits of Magellan; with the natives whereof, who are well disposed, a most favourable Barter Trade may be opened, and thus induce them to develop the entire products of their native countries; hence must arise new and extensive consumers of British Manufactures, and a fresh arena for the display and recompence of English enterprise and commerce.

It is deserving of particular notice, that this Country affords the fairest opportunity for establishing Sheep Farms, upon an extensive scale, with the certainty of a most satisfactory result; for the experiment has already been tried with perfect success, by LEWIS VERNET, whose wool sold at Liverpool for nearly double the price obtained for that of Buenos Ayres growth; from which province, Sheep of a good description may be purchased, at about 3s. 6d. per head, and landed on the Islands at a trifling additional charge, where, being crossed with the Cheviot, South Down, and Leicester, Wool of a superior staple will be produced, increased value to the Land, and additional benefits to the Colony.

To the advantages already enumerated, must be added, the very great facilities of communication with the Old and New World, by means of the various Vessels on their different voyages out and home round Cape Horn passing close to the Islands, and touching there for Water, Fuel, Provisions, Stores, &c.; also the shortness of the voyage thence to England, being upon an average about eight or nine weeks, and its proximity to the South American Provinces, the Brazils, &c. give infinite advantages, which will be perpetually developing themselves, as the resources of the Islands are brought into action, and they progress in Colonization; for which purpose, as for Commercial enterprise, there cannot exist a place possessing more natural and local superiority: at once the most desirable arrangements are available, for Vessels to receive orders for disposing of their Cargoes without always coming to England, and thence returning to their fishing stations past the Falklands, where every requisite will be found, with the further desideratum, of instantly operating upon favourable seasons and occasions.

Many of the foregoing facts will be found fully borne out by Mons. de Bouganville, in his Works entitled Voyages Round the World, in 1764 to 1768, page 37, by James Weddell, R. N. and F. R. S. E. in his Voyage towards the South Pole, in 1812, pages 80 to 110; in Captain Benjamin Morrell's Four Voyages Round the World, completed in 1832, pages 49 to 62; in E. Fanning's pages 92 to 97; by Captain Fitzroy of the Beagle, 1837; and by several Captains and others who have been recently on the Islands.

Bentin

242

23 Dec.
Answer that I must decline to express any
opinion on this project until it shall be in a
state of greater maturity, especially until it
shall appear what extent of amounts of
funds ^{would} be pledged to the undertaking
it who shall be the persons willing to
assume the direction & management of
it.

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1	2	3	4	5	6

Reference:-

CO 78/3 26935

1990 Falkland Islands.

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be
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Sir,

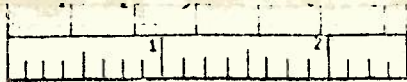
I write on your, to show you a Resolution
signed by representatives of 100 Mercantile Firms of the
City of London connected with the China, South
America & Australian Trades, as well as Irish Wharves,
having great interest in the South Sea fishing
to convene a meeting to carry into effect a Convention
in one of the Falkland Islands.

I should wish to be informed, if an applica-
tion is made on for a grant of the whole or
part of the East Falkland Island for the
purpose mentioned, whether we can be put in
possession of the fishing, entertained by the Colonial
Secretary on the subject so that it can be submitted
to the meeting which will take place in the
near future.

Yours truly
Stevens Esq.

I am Sir
your obedt
Bertie Gooch

Will please to return me the request



C 78/3

26938

END

P. 11

Messrs W. S. Whittington Brothers.

D. S.

22nd Aug: 1836.

Gentlemen.

I am directed by Lord Glenelg to acknowledge the receipt of your letter of the 12th ultimo, together with the accompanying Prospectus &c. of the Association proposed to be established in the Falkland Islands, & for which the sanction of His Majesty's Government is solicited.

Forwarded by	Aug
Mr. Smith	15
Mr. Stephen	15
Sir Geo. Grey	16
Lord Glenelg	16

Entered p. 38.

In reply I am to acquaint you that it is not in Lord Glenelg's power to return any definite answer to your communication, until his Lordship shall be more distinctly informed as to the proposed constitution of the Company, & as to what

1	2	3	4	5	6

Reference:-

C078/3

26938

are the Powers which the
Association in question is
desirous of receiving from
His Majesty. His Lordship
would therefore suggest that
the most convenient mode
of proceeding would be for
the Association to prepare
the Draft of any such Charter
as they may be anxious to
obtain, to which, when
submitted to him, he will
not fail to give his most
careful attention.

22938
2/8/00
Reference



PROSPECTUS

OF THE

²
Falkland Islands Commercial, Fishing, and
Agricultural Association,

TO BE ESTABLISHED BY ACT OF PARLIAMENT.
or Charter. — } *

P.S.
* M.B. Or by such other Arrange^{mt}
as may meet your Lordship's
views? —

C.F.W.
3

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Reference:- C078/3 26938

END

P. 11

PROSPECTUS

OF THE

Falkland Islands Commercial, Fishing, & Agricultural ASSOCIATION,

TO BE ESTABLISHED BY ACT OF PARLIAMENT. *or Charter*

CAPITAL £ IN SHARES OF £ DEPOSIT £ EACH.

Patrons.

Provisional Committee.

Bankers.

Solicitors.

Secretary.

The objects contemplated by this Association (which upon investigation will be found, from its natural resources, utility, and beneficial employment of Capital, to merit the fullest confidence of the Public) are, to form a Colony on the most Easterly of the Islands, the unusual facilities and advantages of which are demonstrated in the subsequent remarks: to create in the magnificent and secure Harbours of Berkley Sound, and Fort William that important national object, a naval and commercial Depôt for the shelter and repair of the numerous vessels now navigating the South Seas; to erect an establishment for supplying fresh and cured provisions, naval stores, water, fuel, and other requisites; to select parties properly qualified for carrying into effect, extensive and most valuable fisheries, cattle farms, &c. for all of which nature has here prepared every thing ready for the industry of man, with the superiority of important adjacent markets.

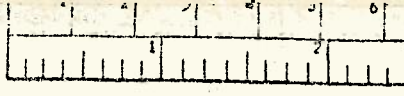
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The Shares to be granted will be subject to such clauses and conditions as are usual for regulating the operations of Stock Companies.

Application for Shares, &c. &c. to be made to



C078/3 26938

EXPLANATION AND RESOURCES

OF THE

FALKLAND ISLANDS.

It is both just and right to enquire, what are the grounds upon which public confidence is claimed for this undertaking; and the answer to be given is, that its objects are founded upon the indigenous and adventitious advantages, which combine to render it a secure investment for capital, commanding quick returns and ample profit. To demonstrate that such is the fact, it will be requisite to develop the resources which those Islands possess, and the ultimate advantages their commanding locality offers, both commercially and politically; these, being full known, will enable individuals to form a correct and accurate opinion of the very great benefit that would accrue from Colonization and the Establishment of Commercial operations in that quarter. Here it will be proper to remark, that from recent information and evidence, official and non official, it has been found that those Islands are blessed with a Fertile Soil, favourable Climate, with many natural resources and advantages beyond those of other Colonies belonging to the British Empire, and must be regarded as the Key to the Pacific Ocean.

The Falkland Islands, ninety in number, (the two largest whereof being each nearly one hundred miles in length and fifty in breadth,) are situated in latitude 50 deg. 58 m. to 52 deg. 46 m. South, and in longitude 57 deg. 20 m. to 61 deg. 29 m. West, within about a week's sail of Buenos Ayres; in proof of the temperature during Winter, there is no instance of Snow lying upon the ground beyond two days, and rarely more than twenty-four hours. Vegetables, such as Cabbages, Carrots, Turnips, Onions, and other greens, live throughout the Winter, and Potatoes left in the ground produce most abundantly the ensuing year; Strawberries, with several other useful plants, herbs, and grasses, grow in a wild state. The thermometer has rarely been known to fall below 26 deg. of Fahrenheit, and is generally during Winter considerably above the freezing point. In Summer, it does not rise above 75 deg. in most years, although in some it has risen to 80 deg in the shade. That the soil is rich is very evident from the Herds of Wild Cattle, Horses, Hogs, &c. which exist on the Islands; their size and condition testifying that they enjoy luxuriant pasturage, and a constant supply of food. The existence of those animals in a Wild State, is an incalculable advantage to early Settlers, securing to them at the outset, food, with useful animals for Draft and Agricultural purposes, at a trifling cost, whilst all the other Colonies have been and still are, compelled to import Cattle, Horses, &c. at enormous expense, which with the insufficient supply are insuperable impediments to prosperity.

The advantage of a clear Soil is more than an equivalent for the absence of Trees, as the Settler is relieved from the difficulty of clearing the land from Wood, which is a laborious, expensive and dilatory process, and from which he will here be exempt. There is abundance of Clay and Stone of superior quality for Building, and an inexhaustible supply of excellent Fuel, approaching to Coal, of which latter the strongest proofs are apparent, as also Mines of various Ore, with indeed almost every requisite and lucrative prospect for an Infant Colony. Timber for all domestic purposes, can be had in any quantity from Staten Island, which is only two day's sail from the Falklands; from the opposite Coasts, and Straits of Magellan within four days' sail, may be obtained abundance of the finest Spars for Ship's Masts, as also plenty of the best Timber for Ship Building. The numerous navigable Bays and Inlets abound with Whales, many Sea Elephants, and fur Seals: they are also plentifully supplied with Sea Fish for human food, and well adapted (when cured,) for the South American and Brazilian Markets, where Potatoes and Corn find likewise a most extensive sale, at very high prices, whence their various productions can be easily and advantageously procured for the use of the Colony and calling Vessels. The Shores of the various Islands are covered with Sea Weed, which is an excellent Manure, and at little expense can be rendered applicable to the use of the Soap Manufacturer, and many other purposes. There are many eligible Harbours, both in the Eastern and Western Islands, as may be seen by the recent Charts, in possession of the Company, but Berkeley Sound claims the principal notice, being an Inlet or Bay extending inwards thirteen miles, with sufficient depth of water for the largest Vessel, and capable of containing a numerous Fleet; it is eight miles in width at the entrance, and five miles at the inner extremity, the soundings running from thirty to four fathoms, with excellent anchorage throughout, and with the important advantage of close Harbours, or Basins, easily convertible into Docks, even at present admirably adapted for heaving down large Ships for repairs.

It will not with Englishmen be considered a small recommendation to the success of this Association, that the completion of their objects, will greatly conduce to the best interests of the Country, by Establishing a Naval Depot in the immediate neighbourhood of the Coasts of South America; none existing either in the Pacific, or Atlantic, within about 3000 miles of Cape Horn. The want of an English Port is strongly depicted in the publication of Anson's Voyages, pages 294 to 298, wherein the situation of the Falkland Islands, then almost unknown, is so urgently pointed out; from being obliged to put into a foreign Port, (St. Catharine's) for supplies, he experienced the greatest caprice and delay on his celebrated expedition to the South Pacific, &c., his position also made known to the enemy, (Spaniards,) by which Pizarro, the Spanish Admiral, gained several days in advance of sailing.

The possession of so ample a Harbour, as is afforded by Berkeley Sound, is a matter of great national importance, where the whole British Navy may ride with perfect safety, speedily refit, &c. so as to be constantly ready for the protection of English Commerce, now of such extensive and increasing importance in that quarter of the Globe.

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The whole of the Islands are bountifully supplied with the purest and finest water, there being many Rivulets intersecting the Lands in all directions, the advantages of which for the Settlers, and for the use of Shipping, cannot be estimated too highly, being equally conducive to health, and beneficial to Agriculture, as also to future Manufactories and Establishments, which may hereafter be brought into operation in the Colony.

The abundance of Wild Cattle, Pigs, &c. already upon the Islands, affords every facility for the supply of fresh and salted Provisions, and the advantageous locality of the Falklands, especially for Vessels returning from Van Dieman's Land, Australia, South America, and the South Seas, cannot fail of insuring a lucrative branch of Trade, at the very commencement of the undertaking. This is no imaginary statement, for, without any of those inducements, which the certainty of obtaining Provisions, and all other requisites, would hold out to Shipping on their return voyage, a very great number touch annually at the Falklands for various purposes, rather than incur the heavy expense, trouble, risk, and delay of proceeding to the Brazils, &c. which otherwise they are compelled to do, making a difference thereby of often a month in their voyage home; with great pecuniary injury to the Owners and Cargoes.

The Association will immediately found fisheries, and employ persons properly qualified, for carrying that most important object into speedy effect. It requires no argument to prove the vastly superior benefit of a Whale Fishery, carried on upon the immediate Coast, saving thereby the enormous outlay for Shipping and Provisions for a long period, unavoidably incurred in the South Sea and other Whale Fisheries; affording to the Island Fisheries, the facility of preparing the Blubber and Bone on shore; from this unfailing source, the Association will derive large profits, in which the Settlers shall participate; for it is well understood that the prosperity of the Settlers, will be also the sure means of increased advantage to the Association, and in fact by the contemplated arrangements, the good of all parties will be inseparably united.

Co-equal with the erection of Stores, will commence the operation of Colonization, upon the Eastern Island, which from its commanding position, its proximity to England, being only half the distance to New Holland, the present and rising spirit for emigration, the facility and trifling expense of accomplishing the latter by means of the frequent passing Vessels, the natural and easily available resources of the Islands, with a well digested system of Colonization, cannot fail of producing speedy prosperity; instead of leaving the Colonists to their own unaided exertions, and so exposing them to the misfortunes that have befallen the early Colonists at the Cape of Good Hope, Swan River, and other Colonies, it is determined by this Association to insure the Colonists, in the possession of at least all the real wants of life, with many of its comforts. For this purpose the first labours of the Settlers will be devoted co-operatively, in securing comfortable abodes, and as many hands make light work, they will, under judicious arrangements, be also employed in cultivating a common farm, for the supply of all, so that famine cannot approach them, during the early operations of the community; and whilst these preventive measures are in progress, the Settlers' time being properly appropriated, part for the general benefit, the other portion will be at their own disposal, for the cultivation of their individual allotment; and for the early use of the Settlers, Flour, Biscuit, &c. in bond, will be supplied from England; Corn and Flour can generally be purchased in Chili, and Van Dieman's Land, at an exceedingly cheap rate, and will be brought by Vessels passing the Islands, at a very low freight, from the frequency of their not having full cargoes, and with the prospect of here completing their lading, with Oil, Whalebone, Fish, Salted Provisions, Hides, Skins, Tallow, Kelp, Wool, Hemp, Flax, &c. &c.

From Colonization of the Falkland Islands, which have hitherto been so strangely overlooked, it will fall to the Settlers, to have the facilities of originating entirely new sources of Commerce for the British Empire; they will, from their locality, have an early opportunity of intercourse with the inhabitants of the Eastern and Western Coasts of South America, and the interior of those regions now so little known, which range right and left of the Straits of Magellan; with the natives whereof, who are well disposed, a most favourable Barter Trade may be opened, and thus induce them to develop the entire products of their native countries: hence must arise new and extensive consumers of British Manufactures, and a fresh arena for the display and recompense of English enterprise and commerce.

It is deserving of particular notice, that this Country affords the fairest opportunity for establishing Sheep Farms, upon an extensive scale, with the certainty of a most satisfactory result; for the experiment has already been tried with perfect success, by LEWIS VERNET, whose wool sold at Liverpool for nearly double the price obtained for that of Buenos Ayres growth; from which province, Sheep of a good description may be purchased, at about 3s. 6d. per head, and landed on the Islands at a trifling additional charge, where, being crossed with the Cheviot, South Down, and Leicester, Wool of a superior staple will be produced, with increased value to the Land, and additional benefits to the Colony.

To the advantages already enumerated, must be added, the very great facilities of communication with the Old and New World, by means of the various Vessels on their different voyages out and home round Cape Horn passing close to the Islands, and touching there for Water, Fuel, Provisions, Stores, &c.; also the shortness of the voyage thence to England, being upon an average about eight or nine weeks, and its proximity to the South American Provinces, the Brazils, &c. give infinite advantages, which will be perpetually developing themselves, as the resources of the Islands are brought into action, and they progress in Colonization; for which purpose, as for Commercial enterprise, there cannot exist a place possessing more natural and local superiority: at once the most desirable arrangements are available, for Vessels to receive orders for disposing of their Cargoes without always coming to England, and thence returning to their fishing stations past the Falklands, where every requisite will be found, with the further desideratum, of instantly operating upon favourable seasons and occasions.

Many of the foregoing facts will be found fully borne out by Mons. de Bouganville, in his Work entitled Voyages Round the World, in 1764 to 1768, page 37, by James Weddell, R. N. and F. R. S. E. in his Voyage towards the South Pole, pages 80 to 110; in Captain Benjamin Morrell's Four Voyages Round the World, completed in 1832, pages 49 to 62; in E. Fanning's pages 92 to 97; and by several Captains and others who have been recently in the Islands.

I am, that it is not in Lord Stanley's power to
 return any definite answer to his letter, until
 his Lordship shall be more distinctly informed
 what is the proposed constitution of the
 Company, and what are the powers
 which these Parties wish to reserve
 from His Majesty. Lord S. will therefore
 suggest that the most convenient
 mode of proceeding would be, for
 the Parties to ~~draw up and~~
 prepare the Draft of any
 such Charter as they wish
 to reserve, to which when
 so prepared Lord S.
 will not fail to give
 his most careful
 attention.

15 Aug 50 J. J.

Falkland Islands

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The objects contemplated
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 nature has here prepared every
 The primary benefits pro-
 Dues, Pilots, the Sale of the
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 Application for Shares,

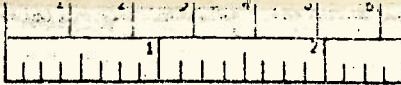


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1189. Falkland Isles. City 12 August 1836.

No. 10 Bucklersbury

My Lord



Upwards of twelve Months having now elapsed since we pressed upon your Lordship's notice the desire of a powerful Body of Merchants & Ship-Owners, interested in the Trade of the Southern Hemisphere, to form a Settlement, &c. at the Falkland Islands, during which times, proceedings (known to the Admiralty) as beneficial only to a few, & prejudicial to the Many, as well as to the future Interests of the Naval & Mercantile World, have been carried on there.

We now beg to convey to your Lordship the form of a Prospectus as recently arranged, after mature investigation, by the parties decided on associating themselves for carrying the project into Bona-fide execution.

Briot

Answered 22. Aug: p 33.

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Prior to filling the names of the Patrons & Committee, into this, the Proof Sheet only, we are desired to wait on your Lordship for the views & intentions of Government so that the Company may, if possible, facilitate the same, or adopt such other measures as may be requisite to effect this desirable object?—

We respectfully beg leave to observe to your Lordship, that the plans of the Assocn will be such as to merit the countenance of his Majesty's Ministers, & if any obstacle (arising thro' the late Buenos-Ayrian settlement, &c.) exist to impede the sanction of his Majesty's Govt towards rendering those Islands of real value & utility to this Country, at little or no more cost to the Crown, than they entail at present, we make bold to say, that we believe ourselves in a position to remove any such real or temporary impediments.—

Gravely

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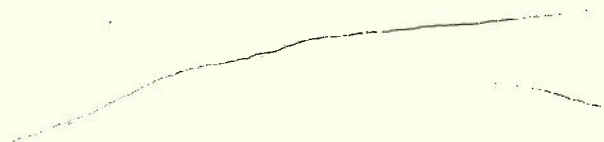
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P. 11

Nepe Gooch & Whittington

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END

0.11

W. Joseph Lewis Glenorchapett.

18th June 1830.

Sir

I am directed by Lord
Glenorchapett to acknowledge
the receipt of your letter
of the 4th ultimo,
explaining the measures
which you and other
persons are desirous of
adopting with the
view of establishing a
commercial company
in the Falkland Islands.

His Lordship desires
me to acquaint you
in answer to that
communication that
if any Association
should be formed for
colonising the Falkland
Islands, and if the

Forwarded by	JUNE
Mr. Vane	11
Mr. Stephen	11
Sir Geo. Grey	13
Lord Glenorchapett	15

Int. 1830

W. J. Lewis
Glenorchapett

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Reference:-

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2693

Members of any such
Body should be able
and disposed to invest
a capital sufficient for
carrying their under-
taking into effect,

The Government will

be ready to consider the
propriety of granting a charter to the proposed company when organized &
the terms of any such

Charter which the
proposed company,

when organized as
I have stated, would

wish to receive. And

it should be distinctly
understood that H.

M. Government would

enter into no pledge

to maintain a ship

of War for the defence

of the intended

Settlements, and

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that no hope would be
held out that any
such incorporated Society
would be invested
by the Crown with a
proprietary right in
the land, — in as much
as all experience
warns in shewing
that the success of
a new colony is greatly
dependant on the
observance of those
rules which have been
adopted to prevent the
too easy acquisition
of land, with the
~~inconsistent~~ disposition
of the settlers, and
its attendant evils —
the neglect of individual
industry and the
preference of general

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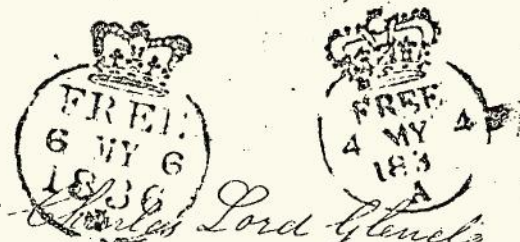
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objects to separate
Schemes.

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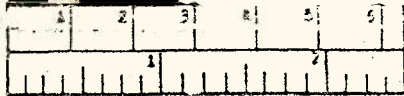
answer that if any effort were to be formed
 for colonizing the Falkland Islands and if
 the Members of any such Body should
 be at once able & disposed to invest a
 capital suff^{ic} for carrying them under the
 into complete effect, Lord Glenelg would
 be ~~prepared~~ ^{happy} to consider the terms
 of any charter which the Co^o might wish
 when so organized might wish to receive.
 But it is not the duty of the Secretary of State
 to undertake that the Co^o enters into no pledge
 for maintaining a ship of war for the defence
 of the proposed settlement. What no hope he
 held out that any such incorporation
 would be made by the Government.
 The Government has no right to the land
 and for all experience & common sense
 to show that the success of a colony is generally
 dependent upon the rules which have been adopted
 for its government. The neglect of the most
 important principles of colonization has been
 the cause of the failure of many attempts.
 The Government has no right to the land
 and for all experience & common sense
 to show that the success of a colony is generally
 dependent upon the rules which have been adopted
 for its government. The neglect of the most
 important principles of colonization has been
 the cause of the failure of many attempts.

Honble Charles Lord Glenelg
 Secretary of State for the Colonies
 Colonial Office
 London



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Dublin 11th May 1836

386 Falkland Islands

My Lord

Being absent from Dublin on the arrival of Your Lordship's letter has prevented my answering it sooner. In pursuance of Your Lordship's request, I beg to submit the plan laid out by the projectors for establishing a commercial Company in the Falkland Islands provided it should meet the approbation of Your Lordship.

Our first object would be to raise a fund by the sale of Shares, which fund, to be lodged in one of the principal London Banks to be drawn thence as occasion may require by the President and a Board of Directors established in London for the service of the Company.

The Company's trade in the Falkland Islands would be divided into two distinct classes. The first confined to the Whale and Seal fishery, and the second to Commercial dealings with the Native tribes of Patagonia, California New Albion and with the Republics of Peru and Chili. Giving them English manufactured goods for their furs and native produce &c.

Immediately on the Company's reaching the Islands it would be their object to select a good situation for building a town and securing a good Harbour for shipping which Harbour to be protected by a Fortification.

The Company would provide themselves with all necessary implements of agriculture. Arms - ammunition, and agricultural labourers - It is proposed by the Company to divide

Ans'd, 18th June 1836.

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all the profits arising from the Fisheries & trade and Commerce every six months amongst the Shareholders both in the Falkland Islands and at Home And all those persons whether Shareholders or others engaged in the Company's service in the Falkland Islands will be formed into a body of Militia for their own defence and the protection of the Islands for His Britannic Majesty

In answer to your Lordship's question as to what measures the Company would wish the Government to adopt in furtherance of their views I have merely to state, that the Company would wish to procure from Government a decided sanction to their plans and also a grant from Government of the Falkland Islands to the Company for whatever term of years Government may think fit - And that the Government would at the same time allow the protection of a Sloop of War until the Company had time to put in practice their plans of self defence -

I beg again to call the attention of Your Lordship to the importance of this plan as regards British Interests, as having a Colony a spacious Harbour and a commodious Port in the Falkland Islands could not fail to benefit highly all vessels going to, or returning from the Pacific Ocean by Cape Horn &c

In time of War with any of the States of North or South America it would be of incalculable benefit to the Mother Country

This plan would also open a wide

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a wide and extensive field for the disposal of British manufactured goods hitherto comparatively unexplored

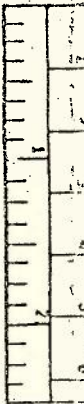
I have the Honour My Lord
to subscribe myself
Your Lordships most humble servant
Jaspt Lewis Blennerhassett } President

To The Right Hon^{ble} Charles Lord Glenelg
Secretary for the Colonies

Henry Moore Esq



To The Right Hon^{ble} Charles Lord Glenelg
Secretary of State for the Colonial Department
Colonial Office
London



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EN

J. L. Blennerhassett Esq. *Downing Street*
25 April 1836.

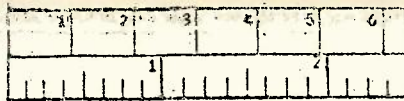
Sir

Forwarded by	Amount
J. R. Smith	22
J. E. Stephen	22
Sir Seal Grey	22
Lord Glenelg	23

Ent. D. 50.

Lord Glenelg has received your letter without date, wherein, as President of the Committee of a Commercial Company proposed to be established in the Falkland Islands, you request to be informed how far, with reference to such an undertaking, the Company may depend upon the sanction of His Irish Government.

265



Lord Glenelg directs

me to acquaint you in
reply, that ^{before he can} ~~it would be~~

returns any definite answer to this proposal
~~desirable that he should~~ he would wish to

receive from you some more

distinct explanation of

the particular measures
which ^{the projectors of the scheme} ~~in regard to these~~

object you may have in
contemplation & to be
~~fixed, and he will also be~~

101
21
101
happily to be furnished in

greater detail with a

statement of those measures

which the Projectors of this Comp^y may

wish the Govt to adopt in

its furtherance of their views

His Lordship however

266

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END

desires me to add that
although he is ~~well~~ not
disposed to ^{consider} entertain

the plan which has been
now have suggested for
~~these countries by the~~

the occupation of
~~Company of occupying~~

the Falkland Islands for
the purposes of Trade,

he is unable to hold out
~~to them any~~ ^{prospect} ~~hopes~~ that

His Ex^{ty} Govt will would

consent to grant Bounties
upon any articles which

in the course of that Trade

may be ^{the Company} imported by ~~them~~
into this Country.

I am Sir

267

END



600. Falkland Islands

Acting in behalf of a number of
individuals who are anxious to form
a commercial company in that part
of His Majesty's Possessions known
by the name of the Falkland Islands
I as acting President of the Committee
of the above mentioned company take
the liberty of enquiring of your Lordship
whether such a company would receive
the sanction of His Majesty's Government.
Should the company be so fortunate
as to receive that sanction, they propose
to raise a fund by the sale of 400 shares
of £30 each to be increased in number if
necessary and also to erect fortifications
for the protection of the Islands for
His Britannic Majesty. The object of this
association would be to carry on the Whale
fishery and the Fur trade, which it is
widely known would in time be vastly of im-
portance to the mother Country. I would
wish also to know whether His Majesty's
Government would be inclined to favour
the undertaking by Bounties on the
productions of the association imported
into Great Britain consisting of oils
and furs. I beg that your Lordship
would favour me with an answer as

Answered 25 April 1850.

any
1850

